

**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:**

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

**le lundi 22 août 2005**

**Held at:**

**Algonquin Room  
Old City Hall  
111 Sussex Drive  
Ottawa, Ontario**

**Monday, August 22, 2005**

**APPEARANCES / COMPARUTIONS**

|                                    |  |
|------------------------------------|--|
| <b>Mr. Paul Cavalluzzo</b>         | <b>Commission Counsel</b>  |
| <b>Mr. Marc David</b>              |  |
| <b>Mr. Brian Gover</b>             |  |
| <b>Ms Veena Verma</b>              |  |
| <b>Ms Adela Mall</b>               |  |
| <b>Ms Lara Tessaro</b>             |  |
| <b>Mr. Ronald G. Atkey</b>         | <i>Amicus Curiae</i>   |
| <b>Mr. Lorne Waldman</b>           | <b>Counsel for Maher Arar</b>  |
| <b>Ms Marlys Edwardh</b>           |  |
| <b>Ms Breese Davies</b>            |  |
| <b>Ms Brena Parnes</b>             |  |
| <b>Ms Barbara A. McIsaac, Q.C.</b> | <b>Attorney General of Canada</b>  |
| <b>Mr. Colin Baxter</b>            |  |
| <b>Mr. Simon Fothergill</b>        |  |
| <b>Mr. Gregory S. Tzemenakis</b>   |  |
| <b>Ms Helen J. Gray</b>            |  |
| <b>Ms Lori Sterling</b>            | <b>Ministry of the Attorney General/<br/>Ontario Provincial Police</b>             |
| <b>Mr. Darrell Kloeze</b>          |  |
| <b>Ms Leslie McIntosh</b>          |  |
| <b>Mr. Faisal Joseph</b>           | <b>Canadian Islamic Congress</b>   |
| <b>Ms Marie Henein</b>             | <b>National Council on Canada-Arab<br/>Relations</b>                               |
| <b>Mr. Hussein Amery</b>           |  |
| <b>Mr. Steven Shrybman</b>         | <b>Canadian Labour Congress/Council of<br/>Canadians and the Polaris Institute</b> |
| <b>Mr. Emelio Binavince</b>        | <b>Minority Advocacy and Rights<br/>Council</b>                                    |
| <b>Mr. Joe Arvay</b>               | <b>The British Columbia Civil<br/>Liberties Association</b>                        |

**APPEARANCES / COMPARUTIONS**

|   |   |
|---|---|
| <b>Mr. Kevin Woodall</b>                      | <b>The International Commission for Jurists, The Redress Trust, The Association for the Prevention of Torture, World Organization Against Torture</b> |
| <b>Colonel Mr. Michel W. Drapeau</b>          | <b>The Muslim Community Council of Ottawa-Gatineau</b>  |
| <b>MR. DAVID Matas</b>                        | <b>International Campaign Against Torture</b>   |
| <b>Ms Barbara Olshansky</b>                   | <b>Centre for Constitutional Rights</b>   |
| <b>Mr. Riad Saloojee<br/>Mr. Khalid Baksh</b> | <b>Canadian Council on American-Islamic Relations</b>   |
| <b>Mr. Mel Green</b>                          | <b>Canadian Arab Federation</b>   |
| <b>Ms Amina Sherazee</b>                      | <b>Muslim Canadian Congress</b>   |
| <b>Ms Sylvie Roussel</b>                      | <b>Counsel for Maureen Girvan</b>   |
| <b>Ms Catherine Beagan Flood</b>              | <b>Counsel for the Parliamentary Clerk</b>  |
| <b>Mr. Norman Boxall<br/>Mr. Don Bayne</b>    | <b>Counsel for Michael Cabana</b>   |
| <b>Mr. Richard Bell</b>                       |   |
| <b>Mr. Vince Westwick<br/>Mr. Jim O'Grady</b> | <b>Counsel for Ottawa Police Service</b>  |
| <b>Mr. Paul Copeland</b>                      | <b>Counsel for Abdullah Almalki</b>   |
| <b>Ms Barbara Jackman</b>                     | <b>Counsel for Ahmed El Maati</b>   |

**TABLE OF CONTENTS / TABLE DES MATIÈRES**

|   | <b>Page</b> |
|---|-------------|
| <b>PREVIOUSLY SWORN: Richard Roy</b>        | <b>9428</b> |
| <b>Examination by MR. DAVID</b>             | <b>9428</b> |
| <b>Examination by Mr. Waldman</b>           | <b>9630</b> |
| <b>Examination by Mr. Boxall</b>            | <b>9684</b> |
| <b>Examination by MR. DAVID</b>             | <b>9687</b> |
| <br>  |             |
| <b>PREVIOUSLY SWORN: Richard Flewelling</b> | <b>9696</b> |
| <br>  |             |
| <b>Examination by Mr. Cavalluzzo</b>        | <b>9696</b> |

**LIST OF EXHIBITS / PIÈCES JUSTICATIVES**

| <b>No.</b> | <b>Description</b>  | <b>Page</b> |
|------------|---|-------------|
| P-205      | Résumé of Richard Roy   | 9428        |
| P-206      | Personal notes of Richard Roy   | 9452        |
| P-207      | SitRep dated September 11, 2002   | 9454        |
| P-208      | Document entitled "Time Line"   | 9459        |
| P-209      | Document concerning the entry dated October 2                             | 9461        |
| P-210      | Personal notes of Pat Callaghan   | 9498        |
| P-211      | Personal notes of Richard Flewelling                                      | 9530        |
| P-212      | Personal notes of Pat Callaghan   | 9540        |
| P-213      | Personal notes of another investigator                                    | 9563        |
| P-214      | SitRep dated October 8  | 9571        |
| P-215      | Personal notes of Pat Callaghan   | 9578        |
| P-216      | Fax by Richard Roy dated October 22, 2002                                 | 9582        |
| P-217      | Personal notes of Pat Callaghan   | 9589        |
| P-218      | Personal notes of another investigator                                    | 9616        |
| P-219      | E-mail dated June 17, 2003  | 9625        |
| P-220      | Résumé of Richard Flewelling  | 9696        |
| P-221      | Statement given by Richard Flewelling to Brian Garvie on January 22, 2004 | 9739        |

1 Ottawa, Ontario

2 --- Upon commencing on Monday, August 22, 2005  
3 at 10:00 a.m. / L'audience débute le lundi  
4 22 août 2005 à 10 h 00

5 MR. DAVID: Good morning,  
6 Mr. Commissioner.

7 THE COMMISSIONER: Good morning,  
8 Mr. David.

9 MR. DAVID: We have Superintendent  
10 Richard Roy of the RCMP who is going to testify  
11 this morning before you.

12 Mr. Roy, however, will be giving  
13 his testimony in French. So it will be necessary  
14 to have his testimony translated.

15 Therefore I think we should do an  
16 equipment check at this point.

17 THE COMMISSIONER: Okay.

18 THE TECHNICIAN: Channel 2 is  
19 English. Everybody should have it on channel 2  
20 for English, 3 for French.

21 [TRANSLATION]

22 MR. DAVID: So, it's channel 2 in  
23 French. And it works. Thank you.

24 [ENGLISH]

25 THE COMMISSIONER: We have one

1 down here that's...

2 Okay.

3 [TRANSLATION]

4 MR. DAVID: Can we swear in the  
5 witness, Mr. Commissioner?

6 [ENGLISH]

7 THE COMMISSIONER: He has been  
8 sworn before, has he not?

9 [TRANSLATION]

10 MR. DAVID: Okay.

11 [ENGLISH]

12 THE COMMISSIONER: You have been  
13 sworn before, so you are still under oath. It's  
14 not necessary to swear you again.

15 [TRANSLATION]

16 PREVIOUSLY SWORN: RICHARD ROY

17 EXAMINATION

18 MR. DAVID: Thank you.

19 Just to situate Superintendent  
20 Roy's testimony, at the time that concerns your  
21 mandate, Mr. Commissioner, Mr. Roy was a liaison  
22 officer for the RCMP with the Department of  
23 Foreign Affairs, and he held that position from  
24 September 3, 2002 to October 14, 2004.

25 Is that correct, Mr. Roy?

1 MR. RICHARD ROY: That's correct.

2 MR. DAVID: You have been an RCMP  
3 officer since 1977, so for 27 years.

4 EXHIBIT P-205: Résumé of  
5 Richard Roy

6 MR. DAVID: I would now like to  
7 file your résumé. Can we file Mr. Roy's résumé as  
8 an exhibit?

9 That would be Exhibit number ---?

10 THE CLERK: Two hundred and five  
11 (205).

12 MR. DAVID: Two hundred and five  
13 (205). Thank you.

14 [ENGLISH]

15 THE COMMISSIONER: Two zero  
16 five (205).

17 [TRANSLATION]

18 MR. DAVID: You now have the rank  
19 of superintendent with the RCMP. At the time that  
20 concerns us, Mr. Roy, you were an inspector. Is  
21 that right?

22 MR. RICHARD ROY: That's right.

23 MR. DAVID: I don't intend to  
24 review in detail your various positions with the  
25 RCMP or in the RCMP, but let it be noted that, as



1 I said, you were a liaison officer for almost two  
2 years, a little more than two years, and now you  
3 are the Regional Director of Corporate Services  
4 for the RCMP?

5 MR. RICHARD ROY: Of Financial  
6 Services for --

7 MR. DAVID: Financial Services.

8 MR. RICHARD ROY: -- headquarters.

9 MR. DAVID: Thank you.

10 Firstly, Mr. Roy, I would like you  
11 to describe the role of an RCMP liaison officer in  
12 a department such as Foreign Affairs.

13 Could you explain the purpose of  
14 this position and your role?

15 MR. RICHARD ROY: Yes.

16 First of all, there is a  
17 memorandum of understanding between the two  
18 departments for -- regarding some of my duties, my  
19 main duties.

20 But to summarize it, I would say  
21 that my role was that of a facilitator.  
22 Facilitating communication. Facilitating  
23 information sharing. And facilitating the various  
24 partnerships that the RCMP and Foreign Affairs had  
25 for many files.

1                   I played a referral role. If  
2 someone wanted certain information, I would obtain  
3 it or refer the person to the unit or person who  
4 could answer their questions and provide the  
5 required help in many areas.

6                   MR. DAVID: So clearly, as a  
7 liaison officer, you didn't play an operational  
8 role for specific files?

9                   MR. RICHARD ROY: No, absolutely  
10 not.

11                   MR. DAVID: Okay.

12                   I would like you to look at your  
13 résumé, which was filed as Exhibit 205, Mr. Roy.  
14 Please turn to page 3 of that document.

15                   The third point, I think, concerns  
16 the description of your function as a liaison  
17 officer in the Department of Foreign Affairs.

18                   You say in your résumé:

19                   [ENGLISH]

20                   As the liaison officer  
21 between the RCMP and the  
22 Department of Foreign Affairs  
23 I provide briefings to senior  
24 management of both  
25 organizations. (As read.)

1 [TRANSLATION]

2 Is that an accurate description?

3 MR. RICHARD ROY: Yes. That's one  
4 of the duties I was referring to, as listed in the  
5 memorandum of understanding.

6 MR. DAVID: Okay. Did your duties  
7 include giving briefings to senior management of  
8 both organizations? Is that something you did in  
9 actual fact?

10 MR. RICHARD ROY: No. Not  
11 directly.

12 Only at the -- Mr.  
13 Heatherington -- at the ISI level, and the people  
14 I dealt with in the RCMP and the CID, which is  
15 criminal intelligence.

16 MR. DAVID: Okay.

17 It goes on to say in your résumé:

18 [ENGLISH]

19 I establish and maintain  
20 contacts, facilitate the  
21 transmission of requests and  
22 decisions... (As read.)

23 [TRANSLATION]

24 I think you testified to that  
25 effect, that this was part of your role. Do you

1 agree with this description?

2 MR. RICHARD ROY: Yes, yes.

3 MR. DAVID: Okay.

4 And it goes on to say:

5 [ENGLSIH]

6 Provide advice and guidance,  
7 and act as liaison regarding  
8 criminal incidents and  
9 activities posing a potential  
10 threat. (As read.)

11 [TRANSLATION]

12 Do you also agree with that  
13 description?

14 MR. RICHARD ROY: Yes.

15 MR. DAVID: If I understand  
16 correctly, you must therefore be familiar with the  
17 files, specific files, in order to carry out your  
18 role properly and your duties as a liaison  
19 officer?

20 MR. RICHARD ROY: Certainly not  
21 the details; no. Not at all.

22 MR. DAVID: But if we take the  
23 example of an investigation like the one conducted  
24 by the RCMP, Division A, Project A-OCANADA, you  
25 were aware of what was involved, the main thrust

1 of that file?

2 MR. RICHARD ROY: Yes. I went -- I  
3 had a few meetings or a few discussions with  
4 members of Project A-OCANADA when I started  
5 working at Foreign Affairs, to familiarize myself  
6 with the file.

7 Afterwards, the only knowledge I  
8 received about that file was when members came to  
9 Foreign Affairs to give updates and briefings when  
10 there were meetings between the RCMP and Foreign  
11 Affairs.

12 I was only aware of a few things  
13 here and there at that level. Exactly.

14 MR. DAVID: We will cover in  
15 detail your actions and interactions in the Arar  
16 file, Mr. Roy.

17 We know that Mr. Arar arrived in  
18 New York on September 26, 2002. We know that he  
19 was detained there for a few days -- in fact, 13  
20 days. And we know that he was eventually deported  
21 from the United States and that you played a role  
22 with respect to the period during which he was  
23 detained in the State of New York. Correct?

24 MR. RICHARD ROY: Correct.

25 MR. DAVID: Would you agree that

1           this is a fairly typical example of the type of  
2           role you might play as a liaison officer in a case  
3           such as Mr. Arar's, that is, a Canadian detained  
4           in the United States, in a foreign country, where  
5           Mr. Arar was already the subject of or was of  
6           interest to an RCMP investigation here, and was  
7           also the subject of services rendered by the  
8           Department of Foreign Affairs?

9                         MR. RICHARD ROY:  If you would  
10           like to qualify my interactions or my involvement,  
11           my role was simply to make sure that the right  
12           people were sitting at the tables for the  
13           discussions that were to take place, as well as  
14           the sharing of information between A and B.

15                        This is -- effectively, this role  
16           is typical with other cases.  Yes.

17                        MR. DAVID:  Okay.

18                        In terms of the hierarchy, now,  
19           and to whom you reported, according to the RCMP  
20           organization chart, I understand that as the  
21           liaison officer for the Department of Foreign  
22           Affairs, you reported directly to Mr. Proulx,  
23           Mr. --

24                        MR. RICHARD ROY:  That's right.

25                        MR. DAVID:  -- Assistant

1 Commissioner Proulx, but in fact, you reported to  
2 Rick Flewelling more directly?

3 MR. RICHARD ROY: I wouldn't use  
4 the expression "reported to," but when I had  
5 information to give the RCMP specifically  
6 concerning national security, I would give the  
7 documents or information to Rick Flewelling, when  
8 he was there.

9 MR. DAVID: So, in terms of  
10 organizational structure, your position, you were  
11 mainly accountable to headquarters.

12 MR. RICHARD ROY: Yes, that's  
13 right.

14 MR. DAVID: Okay.

15 In terms of Mr. Flewelling's work  
16 description, his role at headquarters, in the CID,  
17 was it your understanding that he had special  
18 authority regarding the investigation file being  
19 conducted by A-OCANADA ?

20 MR. RICHARD ROY: That was my  
21 understanding, yes.

22 MR. DAVID: Okay.

23 Can you give us an idea or an  
24 overview of the type -- of the frequency of your  
25 exchanges with Mr. Flewelling in your role?

1 MR. RICHARD ROY: In what sense do  
2 you want me to answer that?

3 MR. DAVID: Did you speak to or  
4 exchange information with Mr. Flewelling  
5 frequently, daily?

6 MR. RICHARD ROY: Yes. Mr.  
7 Flewelling was working on a lot of files in which  
8 I was involved as a liaison officer.

9 So, certainly. Particularly as I  
10 went to headquarters almost every -- on average,  
11 every two days.

12 I would see him on the majority of  
13 those occasions.

14 MR. DAVID: Okay. So when you went  
15 to RCMP headquarters, was it mainly to meet Mr.  
16 Flewelling?

17 MR. RICHARD ROY: No, not at all.

18 MR. DAVID: Okay.

19 When there was an issue related to  
20 the A-OCANADA investigation file, did you contact  
21 Mr. Flewelling?

22 MR. RICHARD ROY: Most of the  
23 time, yes.

24 MR. DAVID: Okay. And when you --

25 MR. RICHARD ROY: Excuse me --



1 MR. DAVID: Yes.

2 MR. RICHARD ROY: Excuse me. I  
3 should clarify that.

4 Most of the time, yes, at least at  
5 first, when I started out as a liaison officer.

6 MR. DAVID: Yes.

7 MR. RICHARD ROY: In the later  
8 months -- the first X months, that was the case.

9 Afterwards, I would see others  
10 more frequently.

11 MR. DAVID: Can you explain that  
12 transition to us?

13 MR. RICHARD ROY: I can't tell  
14 you. I have no idea. In any case, you'll see  
15 from the documents I transferred, the documents I  
16 brought with me to the RCMP, that I was dealing  
17 with others also.

18 Either Mr. Flewelling wasn't there  
19 any more or I was dealing with someone else. I  
20 can't tell you exactly.

21 MR. DAVID: Okay.

22 Did one person in particular more  
23 or less take over Mr. Flewelling's role in the  
24 CID?

25 MR. RICHARD ROY: I can't tell

1           you. I don't remember.

2                           MR. DAVID: Okay.

3                           Now, regarding your training for  
4 the functions and duties of a liaison officer, Mr.  
5 Roy, did you undergo training for that position?

6                           MR. RICHARD ROY: No.

7                           MR. DAVID: Did you have an  
8 opportunity to discuss the functions and the role  
9 you were to carry out in the Department of Foreign  
10 Affairs with your predecessor?

11                           MR. RICHARD ROY: I spent a few  
12 hours with my predecessor.

13                           MR. DAVID: When?

14                           MR. RICHARD ROY: At the very  
15 beginning. My first week, I think.

16                           MR. DAVID: So you made the  
17 transition in a few hours?

18                           MR. RICHARD ROY: Yes, exactly.

19                           MR. DAVID: And before you started  
20 carrying out your duties in the Department, did  
21 you have an opportunity to work on investigation  
22 files that involved intelligence?

23                           Do you get the drift of my  
24 question? Did you have --

25                           MR. RICHARD ROY: Yes. The answer

1 is no.

2 MR. DAVID: The answer is no.

3 Okay.

4 I would now like to spend a little  
5 time trying to understand your work environment at  
6 the Department of Foreign Affairs, Mr. Roy.

7 Correct me if I'm wrong, but  
8 essentially, your office was physically located in  
9 the Department of Foreign Affairs, and more  
10 specifically, in the ISI Office?

11 MR. RICHARD ROY: That's correct.

12 MR. DAVID: What is your  
13 understanding of ISI's mandate? What did ISI do  
14 in the Department?

15 MR. RICHARD ROY: The function  
16 that I'm familiar with, in my own words, was that  
17 ISI, if you can call it that, received information  
18 and intelligence from various sources, both in  
19 Canada and abroad, and its role as I saw it, was  
20 to analyse the intelligence that came in at that  
21 level and then notify its various Foreign Affairs  
22 clients accordingly, depending on what it was  
23 about.

24 MR. DAVID: And your office was  
25 physically located in that office?

1 MR. RICHARD ROY: Correct.

2 MR. DAVID: Were the premises  
3 secure?

4 MR. RICHARD ROY: Yes, yes; they  
5 were.

6 MR. DAVID: Could just anyone  
7 access the premises?

8 MR. RICHARD ROY: No.

9 MR. DAVID: What did you need to  
10 get into ISI's premises?

11 MR. RICHARD ROY: The premises  
12 specific to ISI, you needed -- there is a password  
13 on an alarm system at the door. You needed a  
14 specific password to get inside.

15 MR. DAVID: Did you need to have  
16 security clearance? Did you need to have --

17 MR. RICHARD ROY: Yes. I had it.  
18 Top secret.

19 MR. DAVID: So, as a general rule,  
20 the people who worked in that office had to have  
21 "top secret" clearance.

22 MR. RICHARD ROY: Yes.

23 MR. DAVID: Okay.

24 Could other employees in the  
25 Department enter or access those premises?

1 MR. RICHARD ROY: Those who had  
2 the clearance or who were -- who arrived with an  
3 escort.

4 MR. DAVID: Okay.

5 MR. RICHARD ROY: I assume.

6 MR. DAVID: How many people worked  
7 in that ISI office?

8 MR. RICHARD ROY: There were about  
9 eight of us --

10 MR. DAVID: Eight people in all.

11 MR. RICHARD ROY: -- who were  
12 physically in ISI, as such.

13 MR. DAVID: And the Director of  
14 ISI was Mr. Heatherington?

15 MR. RICHARD ROY: That's correct.

16 MR. DAVID: He also had an  
17 assistant director at the time; was it Jim Gould?

18 MR. RICHARD ROY: Yes.

19 MR. DAVID: When you say eight  
20 people, are they included in that number?

21 MR. RICHARD ROY: Yes, yes.

22 MR. DAVID: There was you. There  
23 was also a liaison officer for the Canadian  
24 Intelligence Service.

25 MR. RICHARD ROY: Yes; CSIS.

1                   MR. DAVID:   Okay.  So was it -- was  
2                   it quite small as an outfit, if you can call it  
3                   that?

4                   MR. RICHARD ROY:   Yes.

5                   MR. DAVID:   Was it an informal  
6                   environment?  Was it -- were the relationships  
7                   hierarchical?  Was it -- can you just describe the  
8                   work environment a little for us?

9                   MR. RICHARD ROY:   Hierarchical  
10                  relationships -- the relationships were definitely  
11                  what I would call professional.

12                  MR. DAVID:   Could everyone speak  
13                  to everyone else in the office?

14                  MR. RICHARD ROY:   Yes, about this  
15                  and that.  Yes, absolutely.

16                  MR. DAVID:   You, for example,  
17                  could directly address Mr. Heatherington, the  
18                  Director?

19                  MR. RICHARD ROY:   Yes, absolutely.

20                  MR. DAVID:   It wasn't formal in  
21                  terms of positions --

22                  MR. RICHARD ROY:   In that sense,  
23                  no.  I could talk to Mr. Heatherington anytime at  
24                  all.

25                  MR. DAVID:   Was it an open-door

1 environment with spontaneous conversations?

2 MR. RICHARD ROY: General  
3 conversation, if I can call it that, yes,  
4 absolutely. That wasn't a problem.

5 But when we were dealing with  
6 specific files, no. It wasn't like that at all.

7 MR. DAVID: Okay.

8 What floor were those offices on?

9 MR. RICHARD ROY: The third floor.

10 MR. DAVID: The third floor.

11 Were Consular Affairs also on the  
12 third floor in the Department?

13 MR. RICHARD ROY: Yes, if I  
14 remember correctly. Yes.

15 MR. DAVID: Okay.

16 MR. RICHARD ROY: In a different  
17 wing.

18 MR. DAVID: In a different wing.  
19 Did you have an opportunity to actually sometimes  
20 go to other offices than those of ISI?

21 MR. RICHARD ROY: Yes, absolutely.

22 MR. DAVID: For example, did you  
23 have access to the Consular Affairs office?

24 MR. RICHARD ROY: Yes, certainly.

25 MR. DAVID: And you would walk

1 over if you needed information or, as part of your  
2 duties, you would sometimes go to other units in  
3 the Department?

4 MR. RICHARD ROY: Yes, yes.

5 Regarding consular cases, you say  
6 that I would go and get information. As far as --  
7 with consular cases, it was more the opposite that  
8 occurred.

9 But yes, I had contact with them.

10 MR. DAVID: Okay.

11 Did it sometimes happen that  
12 informal caucuses were formed in the ISI office to  
13 discuss an issue or information that had just been  
14 learned, Mr. Roy?

15 MR. RICHARD ROY: An informal  
16 caucus?

17 MR. DAVID: Where people would  
18 find something out and then you would get together  
19 to discuss the issue.

20 Did that sort of environment  
21 exist?

22 MR. RICHARD ROY: No, no, not  
23 really. If there was relevant information about a  
24 topic or specific file, someone would ask to call  
25 a meeting.



1                   There was a conference room, a  
2                   small one, but there was one, and that's where  
3                   meetings were held.

4                   MR. DAVID:   And could those  
5                   meetings be called fairly quickly on occasion?

6                   MR. RICHARD ROY:  Yes, absolutely.

7                   MR. DAVID:   Okay.  As soon as the  
8                   information became known?

9                   MR. RICHARD ROY:  Yes, on an as-  
10                  needed basis.

11                  MR. DAVID:   Okay.  Regarding the  
12                  people who were present, you said there were eight  
13                  of you.  Was Mr. Solomon, Jonathan Solomon, one of  
14                  the officers employed by the Department of Foreign  
15                  Affairs with whom ---

16                  MR. RICHARD ROY:  Yes.

17                  MR. DAVID:   Was he -- in terms of  
18                  your relationship, was he the person who was maybe  
19                  mainly authorized to liaise with you, in terms of  
20                  ---

21                  MR. RICHARD ROY:  In general  
22                  terms?  No.

23                  MR. DAVID:   No?

24                  MR. RICHARD ROY:  No.

25                  MR. DAVID:   Did he have a

1 privileged position vis-à-vis your functions?

2 MR. RICHARD ROY: No.

3 MR. DAVID: Did you have more  
4 relations with him than with other members of the  
5 ISI office?

6 MR. RICHARD ROY: At the very  
7 beginning, in the specific case we're dealing with  
8 today, yes, at first, but, other than that, no.

9 MR. DAVID: Do you know why Mr.  
10 Solomon was more involved in Mr. Arar's file at  
11 the very beginning, as you say?

12 MR. RICHARD ROY: I can't see any  
13 other reason than the fact that the file was  
14 probably assigned to him, and I can't tell you  
15 anything more.

16 MR. DAVID: Okay. Mr. Roy, did  
17 you have occasion to notice that Mr. Solomon had -  
18 - in connection with his duties -- had a special  
19 relationship with Nancy Collins in Consular  
20 Affairs?

21 MR. RICHARD ROY: No idea.

22 MR. DAVID: You don't know?

23 MR. RICHARD ROY: No.

24 MR. DAVID: Did you ever notice or  
25 witness a conversation between Ms. Collins and Mr.

1 Solomon?

2 MR. RICHARD ROY: Not  
3 particularly.

4 MR. DAVID: Okay. Did you -- we  
5 saw that you started your duties on September 3,  
6 2002. When the Arar affair occurred, on September  
7 26, you were in your first weeks, in your -- at  
8 the very beginning of your role as liaison  
9 officer.

10 Was it your understanding that  
11 that was also the case for Mr. Solomon at the  
12 time?

13 MR. RICHARD ROY: No. I didn't  
14 know it at the time.

15 MR. DAVID: You didn't know that  
16 Mr. Solomon was also just starting out in that  
17 division?

18 MR. RICHARD ROY: No, that doesn't  
19 ring a bell.

20 MR. DAVID: Pardon?

21 MR. RICHARD ROY: That doesn't  
22 ring a bell. I don't remember that he was also  
23 starting, no.

24 MR. DAVID: Okay. Can you give us  
25 an overview of how intelligence and information

1           about the files could be shared between you and  
2           members of the ISI team? How did you share the  
3           information?

4                       MR. RICHARD ROY: Okay. If Mr.  
5           Solomon, for instance, needed information and  
6           wanted to ask me a question concerning a  
7           particular file, he would ask the question.

8                       I would go see the person who  
9           should be able to give me an answer to the  
10          question, so in some cases, in Division A, and in  
11          other cases, at headquarters, and I would get an  
12          answer and go back to the office and tell him,  
13          quite simply.

14                      MR. DAVID: Okay. In a way, a  
15          physical presence was required to be able to  
16          communicate that way?

17                      MR. RICHARD ROY: Ah! In most  
18          cases at the very beginning, yes, and I wasn't  
19          familiar with the -- or comfortable with the SECUR  
20          telephone system, so in the beginning, that's what  
21          I did, quite simply. I would actually go see him  
22          most of the time.

23                      MR. DAVID: Okay.

24                      Now, Mr. Roy, I would like to  
25          review your more direct involvement in what is now

1 called the "Arar affair," and I would like to  
2 refer you to your personal notes.

3 If we may, I would first like to  
4 file your personal notes as an exhibit, and that  
5 would be Exhibit 206, Mr. Clerk. P-206.

6 EXHIBIT P-206: Personal  
7 notes of Richard Roy

8 MR. DAVID: Please turn to the  
9 first page of your personal notes; these are  
10 photocopies of excerpts, Mr. Roy, and there's an  
11 entry dated September 10, 2002.

12 This is about an 11:00 am meeting  
13 in the office of the Department of Foreign  
14 Affairs. You marked down that Franco Pillarella  
15 and Michel Cabana were present, among others.

16 Do you remember this?

17 MR. RICHARD ROY: Yes.

18 MR. DAVID: Okay. Can you tell us  
19 what that meeting was about, the topic it dealt  
20 with and why it took place?

21 MR. RICHARD ROY: I can't tell you  
22 specifically why the meeting was held, except that  
23 I was in the office and was invited to attend as  
24 an observer since the meeting was about A-OCANADA.

25 MR. DAVID: Pardon?

1 MR. RICHARD ROY: A-OCANADA. It  
2 was about ---

3 MR. DAVID: The investigation file  
4 for ---

5 MR. RICHARD ROY: It was related  
6 to that.

7 MR. DAVID: Did A-OCANADA, A-O-C,  
8 mean anything to you on September 10?

9 MR. RICHARD ROY: On September 10,  
10 very little.

11 MR. DAVID: Very little?

12 MR. RICHARD ROY: Yes, very  
13 little.

14 MR. DAVID: Yes, but that means --  
15 I mean, did you already have an idea -- did you  
16 know about the existence of that investigation  
17 file before the September 10 meeting?

18 MR. RICHARD ROY: I think it was  
19 in the ensuing days that I had a greater  
20 opportunity to be apprised about it.

21 MR. DAVID: Okay. So, is that  
22 when you found out about the existence of the  
23 investigation file called "A-O-C," on September  
24 10, at that meeting?

25 MR. RICHARD ROY: That's pretty

1 hard to answer, but it was around that time.

2 MR. DAVID: It was around that  
3 time; okay. As for the meeting, you can't -- can  
4 you tell us what it was about, what was discussed  
5 at that meeting?

6 MR. RICHARD ROY: On the basis of  
7 my notes, no. There were -- obviously there was  
8 some discussion, it lasted over an hour, but by  
9 the way, I can't tell you the specifics of the  
10 meeting, as such.

11 MR. DAVID: Okay. Now, Mr. Roy, I  
12 would like to show you another document, and we'll  
13 file it -- it's a SitRep dated September 11, 2002,  
14 which was the day after that meeting, and it's  
15 going to be Exhibit P-207.

16 EXHIBIT P-207: SitRep dated  
17 September 11, 2002

18 MR. DAVID: So, on the first page  
19 of that document of September 11, 2002, it says:

20 [ENGLISH]

21 The RCMP L.O. of D. Richard  
22 Roy attended the A-OCANADA  
23 Office during the morning to  
24 be briefed on the  
25 investigation and to acquaint

1                                   himself with the  
2                                   investigation.

3           [TRANSLATION]

4                                   Do you remember that meeting?

5                                   MR. RICHARD ROY:   Yes.

6                                   MR. DAVID:   Okay.  Can you explain  
7 why you were briefed on that investigation file,  
8 at that time?

9                                   MR. RICHARD ROY:  Simply because  
10 as a facilitator, I would have -- I would have  
11 been encouraged to attend and to make sure that  
12 when the time came, the work to be done between  
13 the two parties could be done as easily as  
14 possible; that's all.

15                                   In other words, it was a file that  
16 I was going to hear about and it was important  
17 that I know, first of all, what the threat was,  
18 what the file was about and also, the names of  
19 some of the subjects so that they would be  
20 familiar to us when we heard about one of them.

21                                   MR. DAVID:  To what extent could  
22 there be a connection between the RCMP's mandate  
23 regarding the A-O-C investigation and the  
24 Department of Foreign Affairs' mandate?

25                                   Would you just explain why you



1 needed to be familiarized with this?

2 MR. RICHARD ROY: I'm in a bad  
3 position to answer that. Certainly, when I look,  
4 when we talk about September 11, I don't know what  
5 to tell you.

6 We're talking about -- we're  
7 talking about A-OCANADA; we know what threat we  
8 were talking about, so it's obvious that for the  
9 RCMP, the RCMP has to investigate, but the impact  
10 that such a case might have, the consequences,  
11 obviously Foreign Affairs has a role to play with  
12 respect to security, etc.

13 MR. DAVID: The initiative or idea  
14 that you be familiarized with the main thrust of  
15 this file, who wanted you to be briefed on this  
16 investigation file?

17 Was it the RCMP or did the request  
18 come from ISI?

19 MR. RICHARD ROY: Ah! I can't  
20 tell you; I don't remember.

21 MR. DAVID: Okay. Was ISI  
22 interested in that RCMP investigation file?

23 MR. RICHARD ROY: ISI would have  
24 to tell you that.

25 MR. DAVID: But as far as you're

1 concerned, you were working on the inside, in ISI,  
2 at the time.

3 Did you sense that ISI was  
4 interested in the investigation, the A-O-C  
5 investigation file?

6 MR. RICHARD ROY: Yes, I would say  
7 so, given the possible repercussions of such a  
8 file or such a threat.

9 MR. DAVID: Okay. As for the  
10 names that were identified, you said that you were  
11 given a summary of the subjects of interest in  
12 that investigation file.

13 Was Mr. Arar's name mentioned to  
14 you?

15 MR. RICHARD ROY: No.

16 MR. DAVID: Was Mr. Arar's name  
17 mentioned to you at that meeting of September 11,  
18 2002?

19 MR. RICHARD ROY: No.

20 MR. DAVID: That brings me to the  
21 next question: When did you hear the name? When  
22 did you first learn Mr. Arar's name?

23 MR. RICHARD ROY: On October 2.

24 MR. DAVID: October 2. You had  
25 never heard Mr. Arar's name mentioned in

1 connection with the A-O-C investigation before  
2 that date?

3 MR. RICHARD ROY: No.

4 MR. DAVID: Not in the - not in  
5 the ISI office either?

6 MR. RICHARD ROY: No.

7 MR. DAVID: Okay. I would like to  
8 discuss that date, October 2, Mr. Roy, and will  
9 refer you to three different documents.

10 The first document is what you  
11 have called a time line, a chronological list of  
12 sorts?

13 MR. RICHARD ROY: A time line,  
14 yes.

15 MR. DAVID: I would like to file a  
16 version, a new version of that time line. So that  
17 would be Exhibit P-208.

18 EXHIBIT P-208: Document  
19 entitled "Time Line"

20 MR. DAVID: With respect to the  
21 time line, Mr. Roy, you made an entry dated  
22 October 2; it's on the first page -- page 2 of 9,  
23 and this is what you say in that entry. You say:  
24 [ENGLISH]

25 Advised by Jonathan Solomon

1 of I.S.I. that Arar has been  
2 arrested at J.F.K. Airport  
3 and that consulate has not  
4 been able to see him. Arar  
5 called parents to advise.

6 [TRANSLATION]

7 Then, in parentheses, it says  
8 "file".

9 Firstly, can you explain what  
10 "file" refers to?

11 MR. RICHARD ROY: Yes. It's  
12 simply a folder in which I would have placed a  
13 document.

14 MR. DAVID: Was that your way,  
15 your method of working?

16 MR. RICHARD ROY: Yes. It became  
17 my ---

18 MR. DAVID: Okay. Would you --  
19 would you explain how you worked?

20 MR. RICHARD ROY: After a few  
21 weeks carrying out my duties, I simply -- I  
22 developed my own record-keeping system, and all it  
23 was, was a -- I used file folders and placed the  
24 documents I received inside them.

25 What I did, what I started to do,

1 is that when I had -- when I received a document  
2 that I was supposed to give to someone, I would  
3 make a copy of it and write on it the name of the  
4 person to whom I had given it, then I filed it in  
5 my folder for referral purposes and so that I  
6 would know, would be able to say, "document X  
7 given to so and so," in case anyone asked. That's  
8 what I did.

9 Here, the reason you see the word  
10 "file" is simply that when the Commission  
11 requested photocopies of the notes, etc, I  
12 complied and thought it was a good idea at the  
13 time to maybe make my own time line for my needs  
14 and the needs of the Commission, if applicable.

15 MR. DAVID: Okay.

16 MR. RICHARD ROY: And the slip of  
17 paper on which the indications I received from  
18 Solomon were written was placed in such a folder.

19 MR. DAVID: I would now like to  
20 refer you to another document concerning that  
21 entry we just read, Mr. Roy, and file it now as  
22 Exhibit P-209.

23 EXHIBIT P-209: Document  
24 concerning the entry dated  
25 October 2

1 MR. DAVID: Look at P-209, Mr.  
2 Roy; can you tell us if that's the document that  
3 comes -- to which you were referring when you  
4 wrote "file" with respect to the entry?

5 MR. RICHARD ROY: Yes, absolutely.

6 MR. DAVID: Okay. Okay. So,  
7 that's -- those are documents that we received  
8 late Friday afternoon, Mr. Commissioner, documents  
9 that were in Mr. Roy's folder. I would like to go  
10 over P-209 with you, Mr. Roy. First of all, we  
11 see that it's on a notepad from the Crown Plaza  
12 Hotel & Resorts here in Ottawa. Is that where you  
13 were when you wrote those notes?

14 MR. RICHARD ROY: No, but I had  
15 come from there, I think. I had just arrived from  
16 such a place.

17 MR. DAVID: Such a place?

18 MR. RICHARD ROY: Yes.

19 MR. DAVID: You were at the Crown  
20 Plaza?

21 MR. RICHARD ROY: I had taken part  
22 in a -- I had taken part in a conference on a  
23 related topic, on terrorism or something, but ---

24 MR. DAVID: In connection with  
25 your duties?

1 MR. RICHARD ROY: --- I went back  
2 to the office, and that's when Mr. Solomon came to  
3 see me and gave me that information. I wrote it  
4 down on ---

5 MR. DAVID: The notepad from ---?

6 MR. RICHARD ROY: Exactly.

7 MR. DAVID: That you got at the  
8 conference?

9 MR. RICHARD ROY: Yes.

10 MR. DAVID: So when Mr. Solomon  
11 came to see you and told you that Mr. Arar had  
12 been arrested at J.F.K. Airport in New York, you  
13 were in the ISI offices?

14 MR. RICHARD ROY: Yes.

15 MR. DAVID: Do you remember the  
16 approximate time when Mr. Solomon gave you that  
17 information?

18 MR. RICHARD ROY: I think it was  
19 in the afternoon.

20 MR. DAVID: In the afternoon. So  
21 you jotted down "0202 Jonathan," which is a  
22 reference to Jonathan Solomon. Right?

23 MR. RICHARD ROY: Yes; that was  
24 the date.

25 MR. DAVID: That was the date.

1 MR. DAVID: That was the date, and  
2 Jonathan was the Jonathan Solomon in question?

3 MR. RICHARD ROY: Yes.

4 MR. DAVID: Then you wrote:  
5 "Canadian arrested" and the name "André," which  
6 was crossed out.

7 Do you know what André refers to?

8 MR. RICHARD ROY: No idea.

9 MR. DAVID: But it's your writing?

10 MR. RICHARD ROY: Yes, yes.

11 MR. DAVID: It's -- okay. Was it  
12 André Dion from the RCMP by any chance?

13 MR. RICHARD ROY: No.

14 MR. DAVID: Who was a liaison  
15 officer in Washington?

16 MR. RICHARD ROY: No.

17 MR. DAVID: Okay. The document  
18 says: "Canadian from Montreal or Ottawa" in  
19 parentheses?

20 MR. RICHARD ROY: Yes.

21 MR. DAVID: Was that the  
22 information from Mr. Solomon?

23 MR. RICHARD ROY: Yes.

24 MR. DAVID: And you say -- you  
25 write "Syrian" in parentheses also. Does that



1 mean that Mr. Arar or the Canadian in question had  
2 Syrian citizenship?

3 MR. RICHARD ROY: I think so.

4 MR. DAVID: Okay. To your  
5 knowledge, did that refer to the fact that he had  
6 dual citizenship?

7 MR. RICHARD ROY: I would say so.

8 MR. DAVID: Okay. And you wrote:  
9 "arrested at J.F.K. Airport, New York, Tunis to  
10 Mirabel, arrest". And then you wrote "not  
11 immigration oriented". That too is something Mr.  
12 Solomon told you.

13 What did you understand by that  
14 question? Was it that -- you had asked Mr.  
15 Solomon some questions or was it simply that Mr.  
16 Solomon came to tell you the information and you  
17 simply jotted it down, or did you jot down that  
18 information after asking questions?

19 MR. RICHARD ROY: No, no. I just  
20 wrote down the information that he gave me.

21 MR. DAVID: That he supplied?

22 MR. RICHARD ROY: I wasn't in a  
23 position to ask a lot of questions.

24 MR. DAVID: Okay. And when you  
25 wrote "not Immigration oriented", what did you

1 take that to mean?

2 MR. RICHARD ROY: I don't know if  
3 I gave it much thought, but I must have suspected  
4 the fact that he was, after all, at ISI, so  
5 chances were that it was related to something  
6 criminal.

7 MR. DAVID: Criminal. Were you  
8 maybe thinking it might be a terrorism case?

9 MR. RICHARD ROY: Well, I was in a  
10 very poor position to make judgments on that; I  
11 couldn't say, but obviously, there was a chance.

12 MR. DAVID: Okay. Then there's a  
13 dash and you wrote:

14 [ENGLISH]

15 Consulate not able to see  
16 him. He called parents to  
17 advise.

18 [TRANSLATION]

19 Does "He" refer to Mr. Arar?

20 MR. RICHARD ROY: Yes.

21 MR. DAVID: Okay. When you wrote:  
22 "He called parents to advise", were you referring  
23 to the previous sentence, that is, that the  
24 consulate was not able to see him?

25 MR. RICHARD ROY: Ah! I don't

1 know, and in reading this now, I would think that  
2 it simply refers to his being detained, and he's  
3 calling his parents to let them know he's being  
4 detained.

5 MR. DAVID: Okay. And you wrote:  
6 "The consulate was not able to see him". Was it  
7 your understanding, Mr. Roy, that by saying "not  
8 able to see him" --

9 Was it your understanding that  
10 there had been an attempt to see him already?

11 MR. RICHARD ROY: No. I don't  
12 know.

13 MR. DAVID: You don't know?

14 MR. RICHARD ROY: No.

15 MR. DAVID: Okay. And at the  
16 bottom left, there's a reference: "A" and "CID".  
17 Is "A" a reference to the A Division or Division  
18 A?

19 MR. RICHARD ROY: Yes, that's  
20 right.

21 MR. DAVID: And "CID" refers to  
22 headquarters?

23 Then you say: "in the loop in  
24 notebook". What does that entry refer to?

25 MR. RICHARD ROY: It refers to the

1 fact that immediately afterwards, I went to A-  
2 OCANADA to notify them and ask them questions, and  
3 that's why I wrote here that they were in the loop  
4 and I put my ---

5 MR. DAVID: Was that entry made at  
6 the same time that Mr. Solomon gave you the  
7 information that you jotted down, or was that  
8 entry made later?

9 MR. RICHARD ROY: Specifically "A  
10 Division"?

11 MR. DAVID: Yes.

12 MR. RICHARD ROY: No; afterwards.

13 MR. DAVID: Afterwards?

14 MR. RICHARD ROY: Yes, yes.

15 MR. DAVID: So, it was the  
16 continuation ---

17 MR. RICHARD ROY: Yes, yes.

18 MR. DAVID: --- of your notes for  
19 that day?

20 MR. RICHARD ROY: Yes. It was  
21 simply so I could refer to my notes for continuity  
22 ---

23 MR. DAVID: Okay.

24 MR. RICHARD ROY: --- to know  
25 where I was.

1 MR. DAVID: It was in the  
2 afternoon, and then you say you went to the  
3 offices of the A-OCANADA investigation project,  
4 which are in Division A; right?

5 MR. RICHARD ROY: That's right.

6 MR. DAVID: Let's get back to  
7 P-208, which is the time line you prepared, Mr.  
8 Roy. I'm still on page 2 of 9.

9 You go on to say:

10 [ENGLISH]

11 Met with...

12 [TRANSLATION]

13 And this was crossed out in black,  
14 so, someone and someone else.

15 [ENGLISH]

16 ...of A INSET at 'A' Div.,  
17 discussed ARAR'S situation.

18 [TRANSLATION]

19 Is that the reference in your  
20 notes to the fact that you went to see your  
21 Project A-O-C colleagues?

22 MR. RICHARD ROY: No, not at all.  
23 You're at 8, there. That's ---

24 MR. DAVID: No, no, no. Still at  
25 2.

1 MR. RICHARD ROY: Still at 2?  
2 MR. DAVID: Still the entry of  
3 October 2, sir. Second paragraph.  
4 MR. RICHARD ROY: Oh! sorry.  
5 Okay.  
6 MR. DAVID: Are you...  
7 MR. RICHARD ROY: Yes.  
8 MR. DAVID: Yes, you're with me,  
9 now?  
10 MR. RICHARD ROY: Yes. Yes, okay.  
11 MR. DAVID: Is that a reference to  
12 the fact that you went to the A-O-C office?  
13 MR. RICHARD ROY: That's it.  
14 MR. DAVID: Did you go there  
15 within minutes of hearing what Mr. Solomon told  
16 you, or ---  
17 MR. RICHARD ROY: Yes, immediately  
18 afterwards.  
19 MR. DAVID: You had a feeling that  
20 it was important information that you should  
21 immediately share ---  
22 MR. RICHARD ROY: Yes.  
23 MR. DAVID: --- with your Project  
24 A-OCANADA colleagues?  
25 MR. RICHARD ROY: He asked me

1           whether the RCMP was aware of this.

2                           MR. DAVID:   Who asked you that  
3           question?

4                           MR. RICHARD ROY:   Mr. Solomon.

5                           MR. DAVID:   Mr. Solomon asked ---

6                           MR. RICHARD ROY:   He wanted to  
7           know ---

8                           MR. DAVID:   --- asked you to  
9           follow up on that information?

10                          MR. RICHARD ROY:   He wanted  
11           information.

12                          MR. DAVID:   Okay.

13                          MR. RICHARD ROY:   So, I went over  
14           to A-OCANADA.

15                          MR. DAVID:   What type of  
16           information did Mr. Solomon want to know?

17                          MR. RICHARD ROY:   He didn't tell  
18           me exactly what he wanted to know.  He wanted to  
19           know if we were -- if we knew or -- whatever.  I  
20           don't remember his exact words, but by and large,  
21           he knew something and he wanted me to go to the  
22           RCMP to see if there was any information I could  
23           give him.

24                          MR. DAVID:   So essentially, Mr.  
25           Solomon wanted to see if the RCMP could help him

1 understand what was happening to Mr. Arar in New  
2 York?

3 MR. RICHARD ROY: It makes sense.

4 MR. DAVID: And that's why you  
5 went to the A-O-C office?

6 MR. RICHARD ROY: Yes.

7 MR. DAVID: Is that it?

8 MR. RICHARD ROY: Yes.

9 MR. DAVID: Okay. Do you know  
10 where Mr. Solomon got his information, Mr. Roy?  
11 Do you know where the information that Mr. Solomon  
12 had about Mr. Arar came from?

13 MR. RICHARD ROY: No.

14 MR. DAVID: Did he specify who had  
15 asked him to check with the RCMP?

16 MR. RICHARD ROY: No.

17 MR. DAVID: Do you know if Mr.  
18 Solomon referred to a -- I'm going to -- the term  
19 is "CAMANT note." I don't know how to say it in  
20 French, but you know, the Department of Foreign  
21 Affairs has a system in which information about  
22 specific files is recorded -- and computerized.

23 MR. RICHARD ROY: Mm-hmm.

24 MR. DAVID: Did Mr. Solomon refer  
25 to a CAMANT note when he gave you the information



1 about Mr. Arar?

2 MR. RICHARD ROY: I have no idea.

3 MR. DAVID: You don't know?

4 MR. RICHARD ROY: No.

5 MR. DAVID: Okay.

6 I would like you to look at a  
7 document that has already been filed in the public  
8 records -- it's P-42. That would be Volume 1, Mr.  
9 Clerk -- P-42, Volume 1.

10 --- Pause

11 MR. DAVID: Please go to the 10<sup>th</sup>  
12 tab, Tab 10.

13 This is an entry from the  
14 Department of Foreign Affairs computer system,  
15 CAMANT. Are you familiar with this type of  
16 document?

17 MR. RICHARD ROY: A little, yes.

18 MR. DAVID: Okay. The entry is  
19 dated October 1, 2002, and was made at 12:17 pm.  
20 This is what it says:

21 [ENGLISH]

22 Brother called this morning  
23 in a state of panic.

24 [TRANSLATION]

25 That is Mr. Arar's brother and

1           it's -- it's the brother who called the Department  
2           and spoke to Ms. Collins, Nancy Collins, who was  
3           an officer at Consular Affairs, here in Ottawa.

4                           The message says:

5           [ENGLISH]

6                           He said that subject was able  
7                           to call him this morning from  
8                           MDC...

9           [TRANSLATION]

10                           MDC stands for Metropolitan  
11           Detention Centre, for your information.

12           [ENGLISH]

13                           ...and informed him that he  
14                           would be deported back to  
15                           Syria where he was born.  
16                           Both, subject and brother are  
17                           extremely afraid that he  
18                           would be deported to Syria  
19                           and not in Canada.

20                           Have informed brother  
21                           that we had just received  
22                           confirmation of subject's  
23                           whereabouts and that we were  
24                           trying to confirm the  
25                           charges. I also informed him

1                   that without prior  
2                   authorization that we weren't  
3                   able to provide any  
4                   additional information  
5                   without subject's approval.

6           [TRANSLATION]

7                   So, we see in this note, Mr. Roy,  
8           that on October 1, Ms. Collins, who, after all,  
9           works on the same floor as you and Mr. Solomon,  
10          obtained information from Mr. Arar's brother and  
11          that Mr. Arar was being detained in New York City,  
12          and when Mr. Solomon gave you the information on  
13          October 2, he was obviously referring to the fact  
14          that they had confirmed Mr. Arar's presence in New  
15          York State.

16                   Does that note mean anything to  
17          you? Have you ever seen that information brief?

18                   MR. RICHARD ROY: If I saw it, I  
19          certainly didn't see it at that stage.

20                   MR. DAVID: I'm asking if you saw  
21          it at that time. So, on October 2, did Mr.  
22          Solomon show you that document? Did you have a  
23          chance to read that document?

24                   MR. RICHARD ROY: No.

25                   MR. DAVID: On October 2, when Mr.

1           Solomon came to see you and gave you the  
2           information he gave you, did he mention that Mr.  
3           Arar and his brother were worried, were concerned  
4           that there was a possibility of deportation to  
5           Syria? Was that fact mentioned to you?

6                           MR. RICHARD ROY: No.

7                           MR. DAVID: And I'm talking about  
8           on October 2.

9                           MR. RICHARD ROY: Yes, yes.

10                          MR. DAVID: You have no  
11           recollection that Mr. Solomon told you that either  
12           Mr. Arar or his brother expressed a fear of  
13           possible deportation to Syria?

14                          MR. RICHARD ROY: No.

15                          MR. DAVID: Okay.

16                          Let's get back to the events of  
17           October 2. You continue.

18                          I would now like to refer you also  
19           to your personal notes, with your permission.  
20           Your personal notes have already been filed under  
21           P-206. Please turn to page 20.

22           --- Pause

23                          MR. DAVID: Page 20 contains a  
24           typed transcription of your personal notes, Mr.  
25           Roy, which are still dated October 2.

1 MR. RICHARD ROY: Page 20?

2 MR. DAVID: Page 20.

3 MR. RICHARD ROY: Oh! At ---

4 MR. DAVID: The circled number at  
5 the bottom of the page.

6 MR. RICHARD ROY: Okay.

7 MR. DAVID: Okay?

8 The only thing I'm telling you  
9 about that page is that it's typed, but it's a  
10 typed version of your personal handwritten notes.

11 MR. RICHARD ROY: Yes, okay.

12 MR. DAVID: Okay?

13 MR. RICHARD ROY: Mm-hmm.

14 MR. DAVID: Because your personal  
15 notes are sometimes a little hard to read.

16 You have made some entries in your  
17 personal notes about that meeting of October 2. I  
18 would like to review what you say in your personal  
19 notes.

20 At the top of the page, you say:

21 [ENGLISH]

22 See Rick Flewelling re Maher  
23 phone number.

24 [TRANSLATION]

25 Do you remember what that entry

1 was about?

2 MR. RICHARD ROY: That would have  
3 been written on the left side of my notebook.  
4 It's simply things that - that's where I listed  
5 things I planned to do.

6 MR. DAVID: So it was a follow up  
7 ---

8 MR. RICHARD ROY: Yes, yes.

9 MR. DAVID: --- what needed to be  
10 done as a follow-up?

11 And here, the next line says:

12 Almalki.

13 And here, it says, September 26:

14 [ENGLISH]

15 Advised of itinerary of Maher  
16 to 'A' Division. Arrested on  
17 27th.

18 [TRANSLATION]

19 Do you know what that entry is  
20 about?

21 MR. RICHARD ROY: Yes. It's the  
22 people at A-OCANADA advising me that they were  
23 already aware of the --- that Mr. Arar had been  
24 arrested. They were informed of his itinerary on  
25 September 26.

1 MR. DAVID: Since September 26 --  
2 you learned from your colleagues at A-O-C that  
3 they had known since September 26 that Mr. Arar  
4 was in New York City?

5 MR. RICHARD ROY: Well, not that  
6 he was there, but about his itinerary. They knew  
7 on September 26. What comes after indicates that  
8 they -- they were asked to provide questions,  
9 which they did, and that they knew about the  
10 detention on the 27<sup>th</sup>.

11 MR. DAVID: Okay. So clearly,  
12 when you met your colleagues from the RCMP, A-  
13 OCANADA, they knew more than Mr. Solomon did about  
14 where Mr. Arar was during that period?

15 MR. RICHARD ROY: I cannot say  
16 that they knew, that they knew more, but they knew  
17 that he was being detained.

18 MR. DAVID: Okay.

19 MR. RICHARD ROY: Yes.

20 MR. DAVID: And your notes  
21 continue. You say:

22 [ENGLISH]

23 Re Arar Maher. (a) Supplied  
24 questions on the 26th to...  
25 -- somebody.

1 [TRANSLATION]

2 So you were told that Project A-  
3 OCANADA did actually send questions to someone ---

4 MR. RICHARD ROY: Yes.

5 MR. DAVID: --- whom you  
6 understood to be a U.S. authority?

7 MR. RICHARD ROY: Okay.

8 MR. DAVID: Without identifying  
9 the person, is that it?

10 MR. RICHARD ROY: Okay.

11 MR. DAVID: And that questions  
12 were sent to that U.S. authority on September 26?

13 MR. RICHARD ROY: Exactly.

14 MR. DAVID: You found that out on  
15 that day?

16 MR. RICHARD ROY: Yes.

17 MR. DAVID: October 2<sup>nd</sup>?

18 MR. RICHARD ROY: Mm-hmm.

19 MR. DAVID: Further on, you say:

20 [ENGLISH]

21 27th. Less than forthcoming.  
22 Refused entry to States.  
23 Report was sent, faxed to CID  
24 noting same.

25 [TRANSLATION]



1                   This too is information that you  
2                   learned from your colleagues at A-O-C. So, you  
3                   find out that - when you said "Less than  
4                   forthcoming" were you referring to Mr. Arar?

5                   MR. RICHARD ROY: Yes.

6                   MR. DAVID: Your understanding is  
7                   that Mr. Arar hasn't answered or seems to --  
8                   doesn't seem to be fully co-operating in his  
9                   answers?

10                  MR. RICHARD ROY: Exactly.

11                  MR. DAVID: That is the impression  
12                  or information that was conveyed to you?

13                  MR. RICHARD ROY: Yes.

14                  MR. DAVID: You were also told  
15                  that he would be "Refused entry to the States".  
16                  Does this too refer to Mr. Arar?

17                  MR. RICHARD ROY: Yes.

18                  MR. DAVID: What do you mean by  
19                  "Report was sent, faxed to CID noting same"? Were  
20                  you saying that A-O-C had already disclosed those  
21                  facts to CID headquarters?

22                  MR. RICHARD ROY: Yes.

23                  MR. DAVID: Okay. Then you say:  
24                  "Communication problem". What does "Communication  
25                  problem" refer to?

1                   MR. RICHARD ROY: That's why what  
2 you saw before, that the -- that it's mentioned  
3 that the fax was sent; I knew there was a -- I  
4 knew there was a communication problem between A-  
5 OCANADA and CID. So I asked if CID was aware of  
6 it to confirm -- to make sure that CID was aware,  
7 that I didn't have to do it myself.

8                   MR. DAVID: You asked your  
9 colleagues at A-O-C, the information you're giving  
10 me now ---

11                  MR. RICHARD ROY: Yes.

12                  MR. DAVID: --- if headquarters  
13 was aware of it?

14                  MR. RICHARD ROY: That's it.

15                  MR. DAVID: And you were told yes,  
16 and that it was even faxed?

17                  MR. RICHARD ROY: Yes.

18                  MR. DAVID: Okay. Now, you say  
19 that you were aware that there were sometimes  
20 communication problems between CID, headquarters  
21 and Project A-OCANADA?

22                  MR. RICHARD ROY: Yes.

23                  MR. DAVID: Who told you about the  
24 communication problems?

25                  MR. RICHARD ROY: Some people from

1           -- from CID told me; I was told something to the  
2 effect that A-OCANADA members were slow sending in  
3 the reports, and what I heard from the A Division,  
4 was that CID members rarely attended their  
5 meetings. That's all I was told, and that's what  
6 I'm referring to when I talk about communication,  
7 communication problems.

8                         MR. DAVID: Okay. Let's continue.  
9 The next entry says:

10           [ENGLISH]

11                                 Can we have system that you  
12   can read reports entered?

13           [TRANSLATION]

14                                 What does that refer to ---

15                                 MR. RICHARD ROY: Those are my  
16 personal notes, simply to see. I had just been  
17 told that -- that maybe the reports hadn't been  
18 sent. So, what I thought was that maybe we could  
19 -- I could find out whether there was a system in  
20 which data or information is input automatically,  
21 immediately into a system, which would enable CID  
22 to see it automatically. But that too -- that was  
23 my observation at the time, not knowing much about  
24 how things worked. That's all it is.

25                                 MR. DAVID: It was a desire?

1 MR. RICHARD ROY: It's a personal  
2 note to see what I could do to improve things, or  
3 whatever.

4 MR. DAVID: Okay. How long did  
5 you stay in the A-O-C office, Mr. Roy, at that  
6 moment, at that time, on October 2<sup>nd</sup>?

7 MR. RICHARD ROY: Ah! I couldn't  
8 tell you, I didn't note it down, but it certainly  
9 wasn't long. As soon as I gave the information, I  
10 received other information and returned to ISI.

11 MR. DAVID: Okay. So, you didn't  
12 go to RCMP headquarters?

13 MR. RICHARD ROY: No.

14 MR. DAVID: You went back to the  
15 ISI office?

16 MR. RICHARD ROY: Yes.

17 MR. DAVID: And there, you  
18 reported things to Mr. Solomon?

19 MR. RICHARD ROY: Exactly.

20 MR. DAVID: If we go back to your  
21 time line, we can see that the last or second-last  
22 entry in the time line says, in P-208:

23 [ENGLISH]

24 Advised Jonathan Solomon of  
25 ISI that we were aware of his



1 operating under ---

2 MR. DAVID: Operating ---

3 MR. RICHARD ROY: --- Mr.

4 Flewelling, but other people too, not just him.

5 MR. DAVID: Okay. Your notes go

6 on to say that when you got back to the ISI

7 office:

8 [ENGLISH]

9 Advised Jonathan Solomon of

10 ISI that we were aware of his

11 detention.

12 [TRANSLATION]

13 That is in your time line.

14 MR. RICHARD ROY: Yes.

15 MR. DAVID: And your personal

16 notes say:

17 [ENGLISH]

18 Advised Jonathan. He had

19 told his counterpart that we

20 were pissed off but will

21 change this as this is

22 in-house and...

23 [TRANSLATION]

24 -- somebody -- it's blacked

25 out --

1 [ENGLISH]

2 ... advised us a day prior.  
3 He is not to say that we were  
4 told the day prior.

5 [TRANSLATION]

6 We're going to figure this out.  
7 First of all, your time line says -- yes, the time  
8 line says that you told Mr. Solomon about his  
9 detention. You told Mr. Solomon that you knew  
10 what had become of him, I imagine, since September  
11 26 or 27; right?

12 MR. RICHARD ROY: Yes.

13 MR. DAVID: Did you tell Mr.  
14 Solomon that the RCMP had already sent some  
15 questions also, at least since September 27, to  
16 the U.S. authorities, and that Mr. Arar had  
17 already been questioned by the U.S. authorities?

18 MR. RICHARD ROY: I assume so,  
19 yes. I don't remember the exact words I used. I  
20 assume so.

21 MR. DAVID: You assume ---

22 MR. RICHARD ROY: Yes.

23 MR. DAVID: --- that you told Mr.  
24 Solomon that the RCMP had already sent questions  
25 to the U.S. authorities?

1 MR. RICHARD ROY: Yes, yes.

2

3 MR. DAVID: And you ---

4 MR. RICHARD ROY: We were aware  
5 that he had been detained.

6 MR. DAVID: There was no reason for  
7 you, not to hide but, not to provide Mr. Solomon  
8 with this information?

9 MR. RICHARD ROY: No, I don't think  
10 so.

11 MR. DAVID: You were not asked to  
12 keep it secret, not to tell your ---

13 MR. RICHARD ROY: No, no.

14 MR. DAVID: ---Your---

15 MR. RICHARD ROY: No.

16 MR. DAVID: According to you,  
17 logically, what you would have done would have  
18 been to inform ISI as well that the RCMP had sent  
19 these questions?

20 MR. RICHARD ROY: Yes. Highly  
21 likely, yes.

22 MR. DAVID: And that Mr. Arar had  
23 already been interrogated in relation to these  
24 questions?

25 MR. RICHARD ROY: Yes.



1 MR. DAVID: Okay.

2 Let's go back to your notes, if I  
3 may, once again P-206, your personal notes. The  
4 entry:

5 [ENGLISH]

6 "Advised Jonathan."

7 [TRANSLATION]

8 Are you with me?

9 MR. RICHARD ROY: Yes.

10 MR. DAVID:

11 [ENGLISH]

12 He had told his counterpart  
13 that we were pissed off but  
14 will change this as this is  
15 in-house.

16 [TRANSLATION]

17 Let's stop there.

18 "His counterpart", who was "his  
19 counterpart"? Who does "his counterpart" refer  
20 to?

21 MR. RICHARD ROY: Yes, I believe  
22 that it referred to Mr. Pardy, someone from  
23 Consular.

24 MR. DAVID: At Consular Affairs,  
25 Gar Pardy?

1 MR. RICHARD ROY: Yes.

2 MR. DAVID: Okay.

3 Your notes read:

4 "-- we were pissed off."

5 The "we", is in reference to the

6 RCMP?

7 MR. RICHARD ROY: Yes.

8 MR. DAVID: Okay. Let's continue

9 reading your notes:

10 [ENGLISH]

11 "He had told his counterpart-

12 --"

13 [TRANSLATION]

14 That means that you indicated in

15 your notes that Solomon had told Pardy that the

16 RCMP was:

17 [ENGLISH]

18 "---pissed off but will

19 change this as this is

20 in-house and---"

21 --somebody--

22 "-- advised us a day prior."

23 [TRANSLATION]

24 Would you like to explain this

25 entry for us? What are you referring to here?

1           What is it about?

2                           MR. RICHARD ROY: Yes. All I -- the  
3           only justification that I would have for this is  
4           that, most likely, when we learned -- Mr. Solomon  
5           had mentioned Mr. Arar's detention to me, and we  
6           must have had a discussion during which -- at ISI,  
7           during which someone had apparently mentioned that  
8           perhaps A-OCANADA knew about it, perhaps CID knew  
9           about it, but the other party did not.

10                           That's the only thing that I can  
11           see.

12                           If this were the case, I would  
13           have probably said that if it were the case that  
14           CID didn't know about it or the opposite then  
15           "they would be pissed off".

16                           That's the only thing that comes  
17           to mind to explain this, because I went to  
18           Division "A", and no one was angry at Division  
19           "A".

20                           I came back to ISI. Mr. Solomon  
21           informed me of this. I told him that he was way  
22           off track because there was absolutely no one  
23           offended there.

24                           MR. DAVID: In other words, there  
25           was no reason, to your knowledge, you are telling

1 us, for the RCMP to be frustrated or "pissed off."

2 MR. RICHARD ROY: Absolutely none.

3 MR. DAVID: ---In relation to ---

4 MR. RICHARD ROY: No.

5 MR. DAVID: Okay.

6 Is it possible that ISI or the  
7 Department of Foreign Affairs, Consular Affairs,  
8 Mr. Pardy, for example, they were upset by the  
9 fact that they learned on October 2 that the RCMP  
10 had known since September 26 or 27 that there was  
11 a Canadian being detained in New York City and  
12 that the RCMP had not informed Consular Affairs of  
13 this detention?

14 MR. RICHARD ROY: This is not what  
15 that says at all. No.

16 MR. DAVID: I know, but I am asking  
17 you. Is this a possible scenario to explain what  
18 you noted?

19 MR. RICHARD ROY: I don't have the  
20 slightest idea. I can't tell you. I don't know.

21 MR. DAVID: Did you see, witness or  
22 hear anything about the Department of Foreign  
23 Affairs being frustrated when they learned that  
24 the RCMP had already known for at least seven or  
25 eight days that Mr. Arar was being detained in New

1 York City?

2 MR. RICHARD ROY: No. I wasn't  
3 informed of that.

4 MR. DAVID: Okay. Let's go on Mr.  
5 Roy.

6 In your time line, you say

7 [ENGLISH]

8 . . . Rick Flewelling  
9 advised that he was still in  
10 detention.

11 [TRANSLATION]

12

13 MR. RICHARD ROY: Yes.

14 MR. DAVID: And in your notes, you  
15 have indicated:

16 [ENGLISH]

17

18 The guy is still detained.  
19 Somebody is advised. Rick  
20 advised. (As read)

21 [TRANSLATION]

22

23 MR. RICHARD ROY: Yes.

24 MR. DAVID: The chain of events  
25 involved Mr. Solomon coming to see you in the

1           afternoon with information regarding Mr. Arar, he  
2           asked you to go to see the RCMP to find out what  
3           they could tell you.

4                        You went to the RCMP. You found  
5           out information. You went back to ISI. You shared  
6           this information with Mr. Solomon.

7                        And then you reported -- I don't  
8           mean it in the hierarchical sense -- but you  
9           reported to Mr. Flewelling, and you said that Mr.  
10          Flewelling had been advised.

11                       MR. RICHARD ROY: Yes.

12                       Now, if I may refer to testimony  
13          that I have read that Division "A" was under the  
14          impression that Mr. Arar was then, at that stage,  
15          on his way to Switzerland, I believe, from where  
16          he had --

17                       MR. DAVID: Just so we understand  
18          clearly ---

19                       MR. RICHARD ROY: I will tell you  
20          why.

21                       MR. DAVID: Okay.

22                       MR. RICHARD ROY: Okay. I didn't  
23          note this, and I don't recall this, but obviously,  
24          what I wrote afterwards corroborates this fact  
25          because I mentioned that he was still being

1           detained; in other words, he was still in New  
2           York.

3                           I informed the members of Division  
4           "A" that he was still in New York and not that he  
5           had left for Switzerland, or I don't know where,  
6           and I also informed Mr. Flewelling of this fact.  
7           That is what this indicates.

8                           MR. DAVID: Okay. We are going to,  
9           just to be sure that we have clearly understood,  
10          that everyone has clearly grasped the meaning of  
11          your testimony -- You are telling us today that on  
12          October 2, when you were in the offices of the  
13          A-O-C, that the impression, the information, which  
14          was believed to be accurate at the time, was that  
15          Mr. Arar had already been deported from the United  
16          States and sent back to Switzerland, to Zurich?

17                          MR. RICHARD ROY: That's what I  
18          read in the testimony. Okay.

19                          MR. DAVID: Yes, but my question,  
20          Mr. Roy, -- was this the information that was sent  
21          to you on October 2?

22                          MR. RICHARD ROY: Probably, but I  
23          don't recall, and I didn't make a note of it. But  
24          given the fact that I mentioned what I wrote here,  
25          to the effect that I'd informed them that he was

1 still being detained corroborates what the  
2 testimony --

3 MR. DAVID: The other testimony  
4 that you have read.

5 MR. RICHARD ROY: Absolutely.  
6 That's what I said.

7 MR. DAVID: Okay.

8 So to follow the logic of your  
9 notes or to give a logical meaning to your notes,  
10 you are saying that the information that others  
11 said they had, to the effect that, on October 2,  
12 Arar, they thought that he was already in  
13 Switzerland or in Zurich, and you are saying to  
14 them in the end that they were wrong about that;  
15 they were incorrect, that Arar was still in New  
16 York?

17 MR. RICHARD ROY: Yes.

18 MR. DAVID: Okay.

19 And you informed Mr. Flewelling  
20 that Arar was still being detained in New York?

21 MR. RICHARD ROY: Yes.

22 MR. DAVID: Did you inform someone  
23 at the A-O-C of the fact that the information ---

24 MR. RICHARD ROY: Yes.

25 MR. DAVID: --- and that, we will



1           come to the notes of someone who clearly points to  
2           this.

3

4                         Now, I would like to refer you to  
5           the personal notes of an officer, one of the  
6           investigators at Project A-OCANADA.

7                         And I would like to file these  
8           notes at this time.

9                                 Exhibit No. P-10: Personal  
10                                notes of Pat Callaghan

11                           MR. DAVID: That will be P-210.

12           Thank you.

13           [ENGLISH]

14                           THE COMMISSIONER: P-210.

15                           MR. DAVID: P-210,

16           Mr. Commissioner.

17                           And, Mr. Commissioner, at this  
18           stage the name of the individual that drafted  
19           these notes is redacted. However I don't see the  
20           reason to keep this name from the public record.

21                           My intention was to refer to the  
22           identity of the author of these notes.

23                           MR. FOTHERGILL: Commissioner, the  
24           position of the Crown in respect of identifying  
25           the investigator's notes is that generally it is

1           our preference not to do so because it does tend  
2           to diminish their effectiveness in investigating  
3           National Security matters.

4                     If there's a particular or a  
5           compelling reason why it's necessary to identify  
6           them for a particular purpose, then, yes, we can  
7           proceed to do so.

8                     But if the object of the inquiry  
9           is equally fulfilled simply by referring to them  
10          generically as a Project A-O-CANADA  
11          investigator's, that's certainly our preference.

12                    THE COMMISSIONER: Do you claim  
13          NSC or you would like the name to be --

14                    MR. DAVID: The only reason,  
15          Mr. Commissioner, I mean, it is simply -- this is  
16          a public inquiry.

17                    The name has come out in these  
18          proceedings, and it's just -- it's for the clarity  
19          of the record and for the ease of reference, for  
20          the witness to be able to simply identify who it  
21          is.

22                    MR. FOTHERGILL: We're prepared to  
23          abide by Mr. David's request.

24                    THE COMMISSIONER: Thank you.

25                    MR. DAVID: Thank you.

1 THE COMMISSIONER: Go ahead,  
2 please.

3 [TRANSLATION]

4 MR. DAVID: Mr. Roy, we have filed  
5 personal notes under Exhibit P-210, and these are  
6 the personal notes of Mr. Callaghan, who was one  
7 of the investigators at Project A-O-C at that  
8 time.

9 I would like to read them with  
10 you, regarding how events unfolded on October 2.

11 The first entry is dated -- 2:45  
12 pm -- and here is what it reads:

13 [ENGLISH]

14 Richard Roy (DFAIT L.O.)  
15 arrived at the office. He  
16 asked us if we knew where  
17 Arar was . . .

18 [TRANSLATION]

19 So you were following Mr.  
20 Solomon's orders or Mr. Solomon's request.

21 [ENGLISH]

22 . . . and we replied we did  
23 not. . . explained that we  
24 last heard he had been  
25 detained by the Americans in

1 New York and then returned  
2 from where he had come from  
3 which we understood to be  
4 Zurich.

5 [TRANSLATION]

6 This refers to the idea that A-O-C  
7 members understood on October 2,  
8 that he had already left and that he  
9 was in Zurich.

10 [ENGLISH]

11 I also advised Richard that  
12 on September 26 -- had told  
13 me of Arar's impending  
14 arrival in the U.S. and that  
15 he would be detained &  
16 questioned. I specifically  
17 asked him if he was detained  
18 Arar based on own case or the  
19 -- case. He stated it was  
20 definitely their doing.

21 [TRANSLATION]

22 And there you have an entry -- and  
23 that's what I would like to come to -- at 3:30 pm,  
24 because, as you said, you had returned to the ISI  
25 office after your meeting, and at 3:30 pm, there

1 is an entry in Mr. Callaghan's notes that reads:

2 [ENGLISH]

3 Richard Roy called me and  
4 indicated that he had learned  
5 that Arar was still being  
6 detained in the U.S.

7 [ENGLISH] Do you see that entry?

8 MR. RICHARD ROY: Yes.

9 MR. DAVID: Therefore, that means  
10 that you, you confirmed with A-O-C members that  
11 Mr. Arar was not in Zurich, that there was an  
12 error there, that he was still in New York.

13 MR. RICHARD ROY: Yes.

14 MR. DAVID: Okay.

15 And what was the reaction to this  
16 information? Did Mr. Callaghan or the person with  
17 whom you spoke react to this?

18 MR. RICHARD ROY: I don't recall.

19 MR. DAVID: Okay.

20 Fifteen minutes later, you called  
21 back, and the entry at 3:45 pm reads:

22 [ENGLISH]

23 Richard Roy called me again &  
24 advised me that Arar had  
25 originally intended on flying

1 from New York to Mirabel.

2 [TRANSLATION]

3 Does this mean that you had other  
4 information for --

5 MR. RICHARD ROY: No, not at all.

6 At this point, I looked at the  
7 notes that I had, and I realized that I had  
8 forgotten to tell them about the "Tunis to  
9 Mirabel" part.

10 I called back just to tell them  
11 that ---

12 MR. DAVID: Just so they had the  
13 most complete picture in relation to the  
14 information that Mr. Solomon had given you?

15 MR. RICHARD ROY: Yes.

16 MR. DAVID: Okay.

17 --- Pause

18 MR. DAVID: Mr. Roy, you informed  
19 Mr. Flewelling -- you noted it in your notes - of  
20 the fact, that in the reconstruction that you were  
21 able to make of the events of this day, Mr. Arar  
22 was still in New York?

23 MR. RICHARD ROY: Yes.

24 MR. DAVID: What was the  
25 information that you gave to Mr. Flewelling in

1 relation to this?

2 MR. RICHARD ROY: I don't recall.  
3 All that I know, is noted -- and I noted that I  
4 had informed him.

5 MR. DAVID: Did you --

6 MR. RICHARD ROY: I imagine -- I  
7 can't tell you exactly about what.

8 MR. DAVID: Did you inform him, as  
9 we have seen in P-209, that the consulate or  
10 Consular Services "were not able to see him"?

11 Did you tell Mr. Flewelling this?

12 MR. RICHARD ROY: I don't recall  
13 exactly what I said to him.

14 MR. DAVID: Is it possible that you  
15 sent the information that Mr. Solomon had given  
16 you to Mr. Flewelling, as you did with the A-O-C ?

17 MR. RICHARD ROY: It's possible or  
18 it's possible that I assumed that Division "A" had  
19 informed him, and then I may have only informed  
20 him that he was still being detained.

21 I can't tell you exactly, but he  
22 knew about it ---

23 MR. DAVID: But the fact that Mr.  
24 Arar -- you noted it in P-209 -- the fact that Mr.  
25 Arar had not been seen by Canadian Consular

1 Services? --

2 MR. RICHARD ROY: Yes.

3 MR. DAVID: ---In New York. Was it  
4 information that was relevant to you?

5 MR. RICHARD ROY: To me, no.

6 MR. DAVID: It wasn't relevant. In  
7 what way, Mr. Roy ?

8 MR. RICHARD ROY: No. Relevant on  
9 this date ---

10 MR. DAVID: No, but what I mean is,  
11 did you give any importance to the fact that Mr.  
12 Arar had not benefited from the Canadian Consular  
13 Services as you have noted, as Mr. Solomon had  
14 explained to you?

15 MR. RICHARD ROY: To me, no more  
16 that the other items that are listed there. I  
17 informed him of everything that was listed on the  
18 sheet.

19 I did not prioritize or assign an  
20 a greater degree of importance to one item than to  
21 another.

22 I informed him of the information  
23 that I had and that was it.

24 MR. DAVID: Okay. You gave the  
25 information that you had, that you noted on your



1 sheet.--

2 MR. RICHARD ROY: Yes.

3 MR. DAVID: -- In P-209 ?

4 MR. RICHARD ROY: Yes, to

5 A-OCANADA.

6 MR. DAVID: To A-OCANADA.

7 MR. RICHARD ROY: That's right.

8 MR. DAVID: Did you also send this  
9 information to Mr. Flewelling?

10 MR. RICHARD ROY: This is what I  
11 told you: I don't recall exactly what I said to  
12 Mr. Flewelling.

13 But it's obvious that I informed  
14 him. What I said to him exactly probably depended  
15 on what he knew already. I don't recall what I had  
16 to tell him.

17 MR. DAVID: But at the very least,  
18 you told Mr. Flewelling that the guy was not in  
19 Zurich. Get that out of your head. He is in New  
20 York.

21 MR. RICHARD ROY: Yes, I would say  
22 yes.

23 MR. DAVID: Can you recall with any  
24 certainty any other information that you sent to  
25 Mr. Flewelling?

1 MR. RICHARD ROY: No.

2 --- Pause

3 [ENGLISH]

4 MR. DAVID: Mr. Commissioner, it  
5 is 11:13 pm, 11:15 pm, on my watch, and I know  
6 that Mr. Baxter has to attend a call and has asked  
7 to break at 11:20.

8 We still have five minutes.  
9 However, those five minutes, I'm now embarking on  
10 another day. I can do -- we may as well ---

11 THE COMMISSIONER : How long are we  
12 going to be? How long is the break going to be?

13 MR. BAXTER: Mr. Commissioner,  
14 it's scheduled for half an hour, and if it goes  
15 shorter than that I will tell you and advise  
16 everyone as soon as can.

17 Thank you in advance for  
18 accommodating in this regard.

19 THE COMMISSIONER: Okay. Well,  
20 let's have the break now, but people hold  
21 themselves ready in case the call is shorter  
22 because we've got a lot of territory to cover.

23 MR. DAVID: Yes, we do,  
24 Mr. Commissioner.

25 THE COMMISSIONER: Okay. We'll

1 rise now, and people be available.

2 MR. DAVID: Thank you.

3 --- Upon recessing at 11:14 a.m. /

4 Suspension à 11 h 14

5 --- Upon resuming at 12:03 p.m. /

6 Reprise à 12 h 03

7 MR. CAVALLUZZO: Commissioner,  
8 there is one aspect that I would like to deal with  
9 at this point in the testimony and that concerns  
10 the evidence of Mr. Dickinson from the PCO.

11 THE COMMISSIONER: Mr. Dickinson  
12 is scheduled?

13 MR. CAVALLUZZO: He is scheduled  
14 to testify on Wednesday and it would appear -- oh!  
15 excuse me, on Tuesday -- and it would appear from  
16 the length of Mr. Roy's testimony as well as  
17 Mr. Flewelling's testimony, that there is a very  
18 good chance that we may not get to Mr. Dickinson  
19 tomorrow.

20 So that we have two possibilities  
21 and I see my friend Mr. Fothergill isn't here and  
22 of two possibilities will be hopefully if he can  
23 testify on Monday, August the 29th, that would be  
24 ideal and the next week we would have  
25 Mr. Dickinson on Monday, Mr. Martel on Tuesday and

1 Wednesday.

2 If Mr. Dickinson cannot testify on  
3 Monday August 29th then he will have to testify on  
4 Tuesday, September 6th, which obviously is not  
5 ideal in light of the fact that the submissions  
6 would be due within the week from that date, so  
7 that those are the two possibilities.

8 I have spoken to Mr. Fothergill.  
9 I didn't realize he was not here, but certainly  
10 for other counsel, seeing that Mr. Dickinson will  
11 not be testifying tomorrow, but will be testifying  
12 on Monday, August 29th ideally and if not,  
13 Tuesday, September 6th.

14 THE COMMISSIONER: O.k.

15 MR. BAXTER: I'll take those dates  
16 back, your Honour, again.

17 THE COMMISSIONER: Thank you.  
18 O.k. And today we'll be sitting till one o'clock  
19 and will be breaking for lunch for half an hour  
20 till 1:30 and we'll be starting the rest of the  
21 week at nine o'clock, breaking from 12:30 to 1:30  
22 for lunch for the rest of the week.

23 Mr. David.

24 [TRANSLATION]

25 MR. DAVID: Thank you.

1                   Mr. Roy, before continuing, I  
2 would like to go back to P-209. It's a document  
3 with your handwritten notes that -- information  
4 that Mr. Solomon provided you with on October 2.

5                   You clearly said that this was the  
6 information that you shared with your colleagues  
7 at A-O-C at your meeting.

8                   You also explained that with  
9 respect to Mr. Flewelling, it was at the end of  
10 the afternoon that you made a report to Mr.  
11 Flewelling to of course correct the impression  
12 that Mr. Arar was no longer in New York City; in  
13 fact, he was in New York City.

14                  And I asked you whether the  
15 content of this information in P-209 was reported  
16 to Mr. Flewelling, and I think that you testified  
17 that you did not have any recollection; you did  
18 not remember whether you shared this information  
19 with Mr. Flewelling.

20                  Is that right?

21                  MR. RICHARD ROY: That's right.

22                  MR. DAVID: The question is the  
23 following: is there any reason why you would not  
24 have shared this information, the content of  
25 P-209, with Mr. Flewelling?

1 MR. RICHARD ROY: No, there is no  
2 reason.

3 MR. DAVID: Okay.

4 Let's continue, Mr. Roy, with  
5 October 3, and I would like to refer you to your  
6 personal notes, and if you could turn to page 2 of  
7 your personal notes, P-206.

8 There is an entry at 9:00 am.  
9 Apparently, there was an A-OCanada meeting on  
10 October 3. Do you remember the reason for this  
11 meeting?

12 MR. RICHARD ROY: For the  
13 investigations' side, it was quite simply an  
14 update that investigators had, with  
15 representatives from the A and O Divisions, as it  
16 is mentioned here, and I was invited to merely get  
17 an idea of what the project consisted of, as I  
18 mentioned earlier.

19 MR. DAVID: We have seen that on  
20 September 11, 2002, there was this type of  
21 briefing with A-OCanada. Was it like this too?  
22 Was it a general briefing on A-OCanada's  
23 investigation or was it more specific?

24 MR. RICHARD ROY: This case in  
25 particular, it was definitely not specific. From

1 what I recall, it was general.

2 MR. DAVID: Was the subject of Mr.  
3 Arar discussed on October 3 at this meeting?

4 MR. RICHARD ROY: No, no.

5 MR. DAVID: I would like to refer  
6 you to page 3, the following page, you have a note  
7 concerning October 3 again, and I am going to read  
8 to you what I think I am able to make out. Maybe  
9 it's better if you read it, but it appears to me  
10 to read:

11 [ENGLISH]

12 Meeting tomorrow of Almalki  
13 and Arar as it is believed  
14 the RCMP has something to do  
15 with it.

16

17 [TRANSLATION]

18 Did I read correctly your ---

19 MR. RICHARD ROY: Yes. You read  
20 it correctly. Quite simply, I'd just been apprised  
21 of what you've just read. The next day there was  
22 some lawyer who wanted to have a meeting with  
23 members of A-OCanada.

24 They merely informed me of it;  
25 that's all. I don't know anymore than that. I

1 don't know whether the meeting took place or  
2 anything else.

3 MR. DAVID: Was it your  
4 understanding that the lawyer in question was Mr.  
5 Arar's lawyer?

6 MR. RICHARD ROY: I was under the  
7 impression that it was the same lawyer for the two  
8 individuals noted there.

9 MR. DAVID: Mr. Almalki and Mr.  
10 Arar?

11 MR. RICHARD ROY: Yes, I had this  
12 impression, yes.

13 MR. DAVID: Okay. And it concerned  
14 these individuals and a meeting requested by the  
15 lawyer?

16 MR. RICHARD ROY: Yes.

17 MR. DAVID: Did you attend this  
18 meeting the next day?

19 MR. RICHARD ROY: No, no.

20 MR. DAVID: Now I would like to  
21 show you in Volume I of P-42 if you could turn to  
22 Tab 31, Mr. Roy.

23 It's a Consular Report. The author  
24 is Maureen Gurvin, who was the consular officer in  
25 New York, and she describes in this written report



1 a meeting with Mr. Arar while he was being  
2 detained at M.D.C.

3

4 This is what is called a "Consular  
5 Report," and it is dated October 3; the time  
6 indicated was 3:48 pm, and it concerned Thursday,  
7 October 3, so Mr. Arar's eighth day of detention  
8 in New York City.

9 She describes information that she  
10 learned from Mr. Arar and also describes a  
11 document that Mr. Arar was apparently given, that  
12 was apparently given to Mr. Arar by American  
13 authorities with allegations to the effect, among  
14 others that -- the fourth paragraph reads:

15 [ENGLISH]

16 You are a member of an  
17 organization or an organizing  
18 that has been designated by  
19 the Secretary of State as a  
20 foreign terrorist  
21 organization to wit, al-  
22 Qaeda.

23 [TRANSLATION]

24

25 Obviously, it's a document that

1 contains important information -- I would say that  
2 are significant -- and the penultimate paragraph  
3 refers to this. Ms. Gurvin notes that: "At one  
4 point--" and she reports Mr. Arar's statements in  
5 this document:

6 [ENGLISH]

7 At one point, two Immigration  
8 Officers spoke to him, Mr.  
9 Arar, and told him that they  
10 were going to send him to  
11 Syria. He said that he asked  
12 why since he has not been to  
13 Syria for years and all his  
14 family is in Canada.

15 [TRANSLATION]

16 And she signed the document  
17 "Maureen". Therefore, this is Maureen Gurvin,  
18 Consular Officer, in New York.

19 To your knowledge, did Mr. Solomon  
20 receive either a copy of this document or was he  
21 informed of the information that it contained,  
22 dated October 3, to your knowledge?

23 MR. RICHARD ROY: I can't tell you  
24 that.

25 MR. DAVID: You don't know?

1 MR. RICHARD ROY: No.

2 MR. DAVID: Next, Mr. Roy, we  
3 understand that your office is small; there are  
4 only eight people working there; the atmosphere  
5 seems to be one of cooperation.

6 Did you -- Is it accurate to say  
7 that the working atmosphere between the eight  
8 people was cooperative?

9 MR. RICHARD ROY: Yes.

10 MR. DAVID: Among you, among the  
11 group?

12 MR. RICHARD ROY: Yes.

13 MR. DAVID: The document drafted  
14 by Ms. Gurvin was sent to Nancy Collins at  
15 Headquarters. It contains information that is  
16 quite significant. It is therein alleged; we learn  
17 that the Americans were alleging that Mr. Arar was  
18 an al-Qaeda member.

19 From a Canadian perspective, this  
20 is certainly information of interest, don't you  
21 agree?

22 MR. RICHARD ROY: Yes, okay.

23 MR. DAVID: And my question is  
24 simply that, normally, it seems to me that this is  
25 the type of information that should eventually end

1 up in the hands of the ISI.

2 Do you agree with me?

3 MR. RICHARD ROY: Yes, I would say  
4 so.

5 MR. DAVID: That is why I am  
6 asking you whether, to your knowledge, someone in  
7 the group, the small eight-member group, had been  
8 made aware of this around October 3 or 4, I don't  
9 know, but this type of information, the Americans  
10 were alleging that Mr. Arar was an al-Qaeda  
11 member, and that he was going to be deported.

12 Was he told, was he informed that  
13 he was going to be deported to Syria?

14 MR. RICHARD ROY: Well, it's  
15 possible, but obviously, from where I stand, ISI  
16 members would be in a better position to answer  
17 this question because, first of all, just because  
18 ISI is aware of some documents does not  
19 necessarily mean that I am.

20 And secondly, perhaps they would  
21 be able to confirm when they were informed of such  
22 a consular visit because as far as I can remember.  
23 There is a good chance that ISI wasn't aware of or  
24 involved in a consular visit at some point. They  
25 don't necessarily know automatically. That rings

1 a bell.

2 MR. DAVID: Perhaps this is the  
3 case for consular visits, but when it involves  
4 information alleging that Mr. Arar or a Canadian  
5 detained in New York is an al-Qaeda member, I  
6 think that the information acquires some priority,  
7 a certain -- requires a specific course of action.

8 And that is why I am asking you  
9 whether in a small office atmosphere, in a  
10 cooperative atmosphere, where information is  
11 shared between departments that an ISI consular,  
12 would you not have been informed of this type of  
13 information during an informal discussion at the  
14 ISI office?

15 MR. RICHARD ROY: All I can tell  
16 you is that I don't recall whether or not this was  
17 the case, but I remember a fact and what I saw. I  
18 read on Mr. Solomon's computer screen some facts  
19 concerning Mr. Arar's state of mind. On the third,  
20 I doubt it, but Mr. Arar's state of mind: he was  
21 afraid of going to Syria, and there was also a  
22 reference to al-Qaeda, and if I remember  
23 correctly, he was afraid.

24 That was it: his state of mind. He  
25 was afraid; he had been threatened with being sent

1 to Syria. That, I remember reading on the screen,  
2 at least those points. Was it that note or another  
3 related report? That, I can't tell you; I don't  
4 recall.

5 MR. DAVID: And that, you say was  
6 on Mr. Solomon's computer screen?

7 MR. RICHARD ROY: Yes.

8 MR. DAVID: Was it Mr. Solomon who  
9 said to you: Richard come see this; it's something  
10 important. I would like you to read these ---

11 MR. RICHARD ROY: Well, I wouldn't  
12 have been in his office and wouldn't have started  
13 to read his screen unless he was there, if that's  
14 what you mean.

15 MR. DAVID: So it was after Mr.  
16 Solomon had invited you, said to you: I would like  
17 you to read, to take cognizance of this  
18 information?

19 MR. RICHARD ROY: Yes. There was  
20 also -- but we will probably get to the eight, but  
21 there was also the fact that I was given two of  
22 these consular notes. It's something that I don't  
23 remember.

24 MR. DAVID: Indeed we are going to  
25 get to the eight, and we are going to get to these

1 two documents, and I will be spending some time on  
2 them with you.

3 Mr. Solomon invited you into his  
4 office. He invited you to read something. We have  
5 -- I have clearly put the document into context,  
6 Tab 31. Tab 31, we see that it is dated October  
7 3.

8 My question, Mr. Roy, is -- and  
9 you agree with me that this information --  
10 certainly the allegation of being part of al-Qaeda  
11 is something striking? It is something that  
12 merits follow-up at the ISI level at the very  
13 least, and I would certainly think that there is  
14 an obvious interest that the RCMP should be  
15 informed of this type of allegation. Do you agree  
16 with me?

17 MR. RICHARD ROY: Yes, I agree  
18 with you.

19 MR. DAVID: My question is, when  
20 Mr. Solomon invited you into his office, do you  
21 remember what time of the day it was when he asked  
22 you?

23 Was it-- the document that we can  
24 see here was dated -- not dated, but it is -- in  
25 terms of a time line, we see that it was drafted

1 at 3:48 pm. Would it have been on this date,  
2 after this time or at another time? Do you  
3 remember the time.

4 MR. RICHARD ROY: No, as I said, I  
5 am not even sure that it was this document anyway  
6 and even less sure whether Mr. Solomon was  
7 involved. I can't tell you.

8 MR. DAVID: I understand that you  
9 cannot identify the document that you read on Mr.  
10 Solomon's computer screen, but you can, at the  
11 very least, in terms of information content  
12 confirm what you were able to read; it confirmed  
13 that Mr. Arar was an al-Qaeda member?

14 MR. RICHARD ROY: We -- yes, it  
15 was alleged that he -- We were told that it was  
16 known that---

17 MR. DAVID: That there was an  
18 allegation and that ---

19 MR. RICHARD ROY:--- Something to  
20 that effect. Yes, yes.

21 MR. DAVID: --- that the Americans  
22 were alleging that he was an al-Qaeda member?

23 MR. RICHARD ROY: Mm-hmm!

24 MR. DAVID: And that, two, Mr.  
25 Arar seemed to fear or was concerned about



1 possibly ending up in Syria?

2 MR. RICHARD ROY: Yes.

3 MR. DAVID: Do you remember if  
4 there was any other information that you -- that  
5 was -- that struck you that you remembered from  
6 reading the screen?

7 MR. RICHARD ROY: No.

8 MR. DAVID: In terms of the time,  
9 you can't tell me whether it was after 3:48 pm or  
10 not. Can you tell us if it was on October 3, or  
11 was it another day?

12 MR. RICHARD ROY: I cannot say  
13 with any "certainty", and I can only refer to the  
14 two other documents that I have mentioned to you:  
15 the date that I received these documents, and, if  
16 I am not mistaken, it would have been on the same  
17 date.

18 MR. DAVID: But you are making a  
19 distinction, Mr. Roy, between the two documents  
20 that we are going to analyse and the fact that you  
21 were reading information from a computer screen?

22 MR. RICHARD ROY: Mm-hmm!

23 MR. DAVID: There is a very clear  
24 distinction to be made.

25 Are you telling us that these

1 documents were sent to you on the same day that  
2 you read the information on the computer screen?

3 MR. RICHARD ROY: Well, I can't  
4 say with any certainty, but I think so.

5 MR. DAVID: You think that the two  
6 documents that were sent to you by the Department,  
7 by ISI ---

8 MR. RICHARD ROY: Yes.

9 MR. DAVID: --- were given to you  
10 on the same day that you read this information on  
11 Mr. Solomon's computer screen?

12 MR. RICHARD ROY: I think so.

13 MR. DAVID: You think so?

14 MR. RICHARD ROY: Yes.

15 MR. DAVID: Okay. And what you  
16 think is based on your recollection, your memory,  
17 on the notes, on -- How do you ---

18 MR. RICHARD ROY: It's based on  
19 notes, but -- on recollection, but also on what I  
20 mentioned earlier to the effect that, from what I  
21 knew, ISI was not aware -- and that, that was  
22 related specifically to a consular visit -- that  
23 they were not aware of a consular visit before a  
24 certain date, which was more around -- I believe  
25 the seventh or a few days later.

1 MR. DAVID: But, in other words, I  
2 can confirm with you that the file, our evidence  
3 shows that there was only one consular visit with  
4 Mr. Arar while he was in New York, and this was on  
5 October 3.

6 MR. RICHARD ROY: But what I'm  
7 telling you is that I don't think that Mr. Solomon  
8 or ISI knew about the consular visit until a few  
9 days after it had taken place. That is what I  
10 think and what I am telling you.

11 MR. DAVID: You are testifying that  
12 you believe that ISI learned of the actual  
13 consular visit only a few days after it had taken  
14 place?

15 MR. RICHARD ROY: Yes.

16 MR. DAVID: So a few days after  
17 October 3 ---

18 MR. RICHARD ROY: Yes.

19 MR. DAVID: --- Taking for granted  
20 that October 3 was the day of the consular visit?

21 MR. RICHARD ROY: Yes, unless I'm  
22 mistaken, and there was another case that was  
23 discussed at the ISI office, but, based on what I  
24 recall, it was indeed that.

25 MR. DAVID: Okay. Now, it is one

1 thing to know -- to understand that there was a  
2 consular visit, but quite another, I'm suggesting,  
3 Mr. Roy, to learn of the allegation that Mr. Arar  
4 was an al-Qaeda member.

5 Do you agree with me that the two  
6 don't necessarily go together: a consular visit  
7 and understanding that he was alleged to be an  
8 al-Qaeda member?

9 MR. RICHARD ROY: Yes.

10 MR. DAVID: Yes?

11 MR. RICHARD ROY: Okay.

12 MR. DAVID: Therefore, is it  
13 possible that the information, the allegation that  
14 Mr. Arar was an al-Qaeda member or the report that  
15 Mr. Arar feared being deported to Syria, that this  
16 information had been known by ISI before they may  
17 have found out about a consular visit?

18 MR. RICHARD ROY: Yes. Yes, of  
19 course. Yes.

20 MR. DAVID: Yes.

21 MR. RICHARD ROY: They could have  
22 known it before. It's highly possible.

23 MR. DAVID: Let's take a  
24 hypothetical situation and take as a given, Mr.  
25 Roy, that there was evidence that says that, in

1           this cooperative, sharing environment of an  
2           informal group meeting, on October 3 or maybe  
3           October 4, this information was shared among the  
4           ISI team members, and you were there.

5                         Would it surprise you to find out  
6           that Mr. Arar's being an al-Qaeda member, his  
7           possibly ending up in Syria and his being deported  
8           by the Americans were discussed in a cooperative,  
9           informal meeting on October 3 or 4 that you  
10          attended?  Would it surprise you to learn that  
11          there was evidence to this effect?

12                        MR. RICHARD ROY:  I would be  
13          surprised to learn that there was a discussion to  
14          the effect that Mr. Arar might be deported, yes,  
15          because I don't recall hearing or discussing that  
16          there was any possibility that he would be sent --  
17          that he would be deported to Syria either by  
18          Foreign Affairs or even the RCMP.  I don't have  
19          any recollection of hearing someone mention this  
20          or having discussed it.  That doesn't ring a bell  
21          at all.

22                        MR. DAVID:  And if it concerned Mr.  
23          Arar's fear of ending up in Syria, was that, was  
24          that a possible topic of discussion among -- in --  
25          in the same type of informal, cooperative context

1 on October 3 or 4, that Mr. Arar's fears were  
2 discussed?

3 MR. RICHARD ROY: Yes, I would say  
4 that that is possible, but I have no  
5 "recollection"; I don't recall this; I have no  
6 notes about this, and if the discussion had taken  
7 place, I -- It wasn't apparent to me that this was  
8 something that should be passed on to the RCMP.  
9 It doesn't ring a bell.

10 You mentioned perhaps the fourth.  
11 I know that on the fourth, it was impossible. The  
12 fourth was a Friday, and I wasn't at work.

13 MR. DAVID: O.K. And how is it  
14 that you can tell us that you were not at work on  
15 the fourth?

16 MR. RICHARD ROY: It's based on my  
17 notes.

18 MR. DAVID: It's in your notes?

19 MR. ROY: Mm-hmm.

20 MR. DAVID: Okay.

21 So, let's move on now to  
22 October 4, and I would like to ask the Clerk if at  
23 this point I could file Officer Flewelling's  
24 personal notes.

25 --- Pause

1 MR. DAVID: That then would be  
2 Exhibit ... ?

3 THE REGISTRAR: 211.

4 MR. DAVID: P-211,  
5 Mr. Commissioner.

6 EXHIBIT P-211: Richard  
7 Flewelling's personal notes.

8 These are then, Mr. Roy,  
9 Mr. Flewelling's personal notes and I would like  
10 to refer you to page 38 of these notes.

11 [ENGLISH]

12 MR. BAXTER: Pardon me,  
13 Mr. Commissioner. Could we have a copy of those  
14 notes, Mr. Clerk?

15 --- Pause

16 [TRANSLATION]

17 MR. DAVID: So, we are on  
18 October 4. October 4; if it can help you, there  
19 is a calendar, Mr. Roy, which ...

20 MR. ROY: Okay.

21 MR. DAVID: ... which is posted  
22 there. It's a Friday.

23 MR. ROY: Yes.

24 MR. DAVID: These are  
25 Mr. Flewelling's notes, as I was saying, and half

1 way down page 38, in the middle of the page, there  
2 is a note:

3 [ENGLISH]

4 "Called Richard Roy to advise  
5 what the status is."

6 [TRANSLATION]

7 Did you read that?

8 MR. ROY: Yes.

9 MR. DAVID: Do you remember a  
10 conversation, whether on the telephone or  
11 otherwise, with Mr. Flewelling on October 4?

12 MR. ROY: No. All I have entered  
13 in my notepad is AOL, absent on leave.

14 MR. DAVID: Okay. And do you have  
15 any recollection ... even though you were AOL, do  
16 you recollect a telephone conversation with  
17 Mr. Flewelling about Mr. Arar's status on that  
18 date?

19 MR. ROY: No. No.

20 MR. DAVID: You have no  
21 recollection?

22 MR. ROY: None.

23 MR. DAVID: Would it surprise you  
24 to hear that you had a telephone conversation with  
25 Mr. Flewelling on that day, October 4?



1 MR. ROY: Yes, that would surprise  
2 me. Yes.

3 Mr. DAVID: And do you recall  
4 where you were on that day ... ?

5 MR. ROY: No.

6 MR. DAVID: ... on Friday,  
7 October 4?

8 MR. ROY: No.

9 MR. DAVID: Would you normally  
10 have worked on that day? Friday would normally be  
11 ...

12 MR. ROY: Yes. Yes.

13 MR. DAVID: ... generally  
14 speaking, would you have been working?

15 MR. ROY: Yes.

16 MR. DAVID: Do you remember  
17 requesting permission not to go into work, for  
18 having requested authorization not to work?

19 MR. ROY: Yes. Yes, of course I  
20 would have and would have advised  
21 Mr. Heatherington.

22 MR. DAVID: Would  
23 Mr. Heatherington have been in the position to ...  
24 or have the authority to give you a day off, a day  
25 of leave? Is that how ...

1 MR. ROY: Yes, yes.

2 MR. DAVID: How does it work?

3 MR. ROY: Yes, that's the way it  
4 worked. I would have asked or advised him about  
5 whether I could take that day of leave. Indeed.

6 MR. DAVID: And you have no  
7 recollection of having had a telephone  
8 conversation or some other conversation with  
9 Mr. Flewelling on that day?

10 MR. ROY: No, it doesn't ring a  
11 bell.

12 MR. DAVID: You don't remember  
13 anything about Mr. Flewelling informing you that  
14 he was going to continue, in connection with the  
15 information you shared with him, that he was going  
16 to continue his investigation with the Immigration  
17 and Canada Passport authorities? It doesn't ring  
18 a bell with you at all?

19 MR. ROY: No.

20 MR. DAVID: Even though, Mr. Roy,  
21 according to your notes, you did not work on that  
22 day, is it possible that you may have had a  
23 conversation with Mr. Flewelling on that day? Did  
24 you have a pager, for example, or perhaps a  
25 telephone ...

1                   MR. ROY: I have a cellular phone,  
2 but I made no notes and have no recollection of  
3 having discussed anything whatever ...

4                   MR. DAVID: Okay.

5                   MR. ROY: ... with Mr. Flewelling  
6 on the 4th.

7                   MR. DAVID: And if Mr. Flewelling  
8 had wanted to reach you, he would have been able  
9 to contact you on your cellular phone?

10                  MR. ROY: Yes, absolutely.

11                  MR. DAVID: Did you also have a  
12 pager?

13                  MR. ROY: No. A cellular, but ...

14                  MR. DAVID: A cellular phone.

15                  MR. ROY: ... anybody would have  
16 been able to reach me at any time.

17                  MR. DAVID: Even though you were  
18 on leave?

19                  MR. ROY: Yes, yes.

20                  MR. DAVID: Your cell phone was  
21 working?

22                  MR. ROY: Yes, unless I was out of  
23 town.

24                  MR. DAVID: Very well.

25                  Now, let's move on, Mr. Roy, to

1           October 8.

2           [ENGLISH]

3                           MR. O'GRADY:  Commissioner, I  
4           wonder could the witness raise his voice a bit;  
5           it's very hard to hear him back here.

6           [TRANSLATION]

7                           MR. ROY:  Yes, okay.

8                           MR. DAVID:  We will now move on to  
9           October 8.  Tuesday.  It is day 13 of Mr. Arar's  
10          detention and the day on which Mr. Arar was  
11          deported from the United States.

12                           I would basically like to refer  
13          you to three documents.  The first is your own  
14          notes; the second is the Garvie Report and third  
15          and last, I am going to refer you to  
16          Mr. Callaghan's personal notes.

17                           So let's begin with your own notes  
18          and look at page 21, if you please.

19          [ENGLISH]

20                           THE COMMISSIONER:  What was the  
21          exhibit number, 206?

22                           MR. DAVID:  206, Mr. Commissioner.

23                           THE COMMISSIONER:  Page 21?

24                           MR. DAVID:  Page 20 and 21.

25                           THE COMMISSIONER:  Thank you.

1 [TRANSLATION]

2 MR. DAVID: So, on page 20,  
3 Mr. Roy, October 8, your first entry reads:

4 [ENGLISH]

5 "Approximately 10:00 met with  
6 A-OCANADA guys. A-OCANADA  
7 are told that he is leaving  
8 for Ottawa tomorrow."

9 [TRANSLATION]

10 Are you ...

11 MR. ROY: Yes.

12 MR. DAVID: ... are you following  
13 me?

14 [ENGLISH]

15 " ... he is leaving for  
16 Ottawa tomorrow."

17 [TRANSLATION]

18 That would be Mr. Arar?

19 MR. ROY: Yes.

20 MR. DAVID: The impression of the  
21 members of A-OCANADA, then, was that he was coming  
22 to Canada.

23 MR. ROY: That is correct.

24 MR. DAVID: Were you told how he  
25 knew that, and where that information came from?

1 MR. ROY: I think that is a  
2 question of national security.

3 MR. DAVID: But without  
4 identifying the specific agency, was it from an  
5 American source?

6 MR. ROY: Yes.

7 MR. DAVID: Mr. Roy?

8 MR. ROY: Yes, okay. Yes, that's  
9 it.

10 MR. DAVID: So the members had  
11 clearly indicated that according to their American  
12 contact, Mr. Arar was returning to Canada?

13 MR. ROY: Yes, that's right.

14 MR. DAVID: All right.

15 And your notes say:

16 [ENGLISH]

17 "Knew it a couple of days  
18 ago."

19 [TRANSLATION]

20 Does that mean that the A-O-C  
21 members had intelligence from the Americans a few  
22 days before that he was coming?

23 MR. ROY: That is the case.

24 MR. DAVID: So the American  
25 information went back a few days?

1 MR. ROY: That's right.

2 MR. DAVID: It wasn't from that  
3 day ...

4 MR. ROY: You are correct, that's  
5 right.

6 MR. DAVID: Okay.

7 [ENGLISH]

8 "Court tomorrow and maybe  
9 after that."

10 [TRANSLATION]

11 Is "Court" a reference to a U.S.  
12 court?

13 MR. ROY: Yes.

14 MR. DAVID: Right.

15 "[A]nd maybe after that" means  
16 that he was going to be released or that he could  
17 return to Canada after his court appearance?

18 MR. ROY: Yes. That is what the  
19 members of A-OCANADA were expecting and were  
20 taking ... if I remember correctly, were making  
21 arrangements accordingly.

22 MR. DAVID: Okay.

23 Now your notes say that you met  
24 A-OCANADA at approximately 10:00 a.m. Can you  
25 remember the events that preceded that meeting?

1 Did you go to the ISI office before going to the  
2 A-OCANADA office on that day?

3 MR. ROY: Oh certainly, yes.

4 MR. DAVID: Okay, did you find  
5 something out at ISI before going ... Was there a  
6 reason ... in other words, how can you explain how  
7 come you were at A-O-C at 10:00 a.m.

8 MR. ROY: Yes. I will go back to  
9 the documents I told you about earlier. These  
10 documents are also not mentioned in my ... in my  
11 time line, simply because they are Mr. Callaghan's  
12 notes which I use to remind myself that when I  
13 went to the A-OCANADA office, I had two consular  
14 notes in order to be able to share the contents  
15 with RCMP members, which I did with Mr. Callaghan.  
16 He read the two documents in question and ...  
17 that's it.

18 MR. DAVID: Were copies of these  
19 documents given to A-O-C?

20 MR. ROY: No. The copies were not  
21 handed over and based on my recollection from that  
22 day, what I had in mind would have been that  
23 afterwards, I would go to headquarters with these  
24 documents to inform them of the contents, but thus  
25 far, I do not have a vivid memory of having ... of



1           having gone and had someone read the documents or  
2           given them to anyone.

3                         MR. DAVID:   Do you mean ... ?

4                         MR. ROY:    I know that normally,  
5           that's what I would have done, but I can't  
6           remember to whom I might have given them or who  
7           might have read them.  I just can't remember.

8                         MR. DAVID:   And that was at  
9           headquarters?

10                        MR. ROY:    Precisely.

11                        MR. DAVID:   Okay.

12                        So let's go to the notes,  
13           Mr. Callaghan's notes, for that day.

14                        I would therefore like to file as  
15           evidence, a version ...  Will that be P-2 ... ?

16                        THE CLERK:   212.

17                        MR. DAVID:   P-212,  
18           Mr. Commissioner.

19                        THE COMMISSIONER:  Thank you, Mr.  
20           Clerk.

21                        EXHIBIT P-212:   Pat  
22                        Callaghan's personal notes.

23                        MR. DAVID:   Please allow me to ...  
24           There is an entry at 9:45 in my Mr. Callaghan's  
25           notes for October 8 which says that:

1 [ENGLISH]

2 "Richard Roy (DFAIT LO)  
3 arrived at our office and we  
4 advised him of what we knew  
5 about Arar's situation --  
6 interviews and Arar's  
7 possible deportation to  
8 Canada on Wednesday. Richard  
9 was not aware of the  
10 deportation scenario."

11 [TRANSLATION]

12 That is to say the scenario  
13 whereby he returned to Canada ...

14 MR. ROY: That is correct.

15 MR. DAVID: ... you learned that  
16 from them?

17 MR. ROY: Yes.

18 MR. DAVID: So for the second  
19 time, you do not all appear to have been on the  
20 same wavelength ...

21 MR. ROY: That is correct.

22 MR. DAVID: ... in the sense that  
23 the first time, they were saying that he was in  
24 Zurich, which was completely wrong, and then, they  
25 said he was coming to Canada?

1 MR. ROY: Yes.

2 MR. DAVID: You on the other hand,  
3 said:

4 [ENGLISH]

5 "He stated that he only knew  
6 that Arar was still in  
7 custody and there was a  
8 possibility he would be sent  
9 to Syria."

10 [TRANSLATION]

11 MR. ROY: Yes. What I might  
12 mention, is that there was the possibility ...  
13 That is to say that I mentioned that Mr. Arar, in  
14 his state of mind, was afraid to go to Syria.  
15 Okay?

16 MR. DAVID: So ...

17 MR. ROY: That is what I  
18 mentioned.

19 MR. DAVID: So when you ... the  
20 note here refers to a possible scenario in which  
21 Mr. Arar was in Syria, and you are saying that  
22 according to your testimony, it is in fact ... it  
23 is a reference to the state of mind or fears  
24 expressed by Mr. Arar?

25 MR. ROY: Yes. That's right. And

1           certainly it may have been possible ... there may  
2           have been some discussion, and then the person  
3           came to that conclusion, but for me, there was no  
4           one, as I mentioned earlier, who said to me, there  
5           is a possibility that he might go to Syria. No  
6           one ever said that in that way.

7                           I therefore strongly doubt that I  
8           would have gone to "A" Division and said that it  
9           was highly likely that he was ... that he would be  
10          going to Syria. I don't remember that at all.  
11          What I do remember is mentioning his state of  
12          mind, and that he was afraid of being deported to  
13          Syria, and that is what I would have mentioned at  
14          the time.

15                          MR. DAVID:    So what you are  
16          telling us today, Mr. Roy, is that at no time did  
17          anyone in ISI affirm that they had intelligence to  
18          the effect that Mr. Arar would be deported to  
19          Syria ...

20                          MR. ROY:    That's right.

21                          MR. DAVID:    ... or even that he  
22          might be deported to Syria ...

23                          MR. ROY:    I never heard that ...

24                          MR. DAVID:    ... and the reference  
25          to Syria was merely to Mr. Arar's subjective state

1 of mind?

2 MR. ROY: That's right. But on  
3 that point, I could even go back perhaps to the  
4 following day to once again reiterate this fact.  
5 That is to say that on the 9th, once we knew that  
6 Mr. Arar was no longer in New York, because it had  
7 been confirmed at the consular level, the first  
8 person we contacted, Jim Gould, whom you know from  
9 ISI ...

10 MR. DAVID: Yes.

11 MR. ROY: ... was here. What he  
12 mentioned first of all was Guantanamo. There  
13 again, that was the first thing that happened.  
14 That's a long way from Syria.

15 MR. DAVID: Okay.

16 Let's continue, then. It says:

17 [ENGLISH]

18 "Richard showed me the file  
19 he had from DFAIT."

20 [TRANSLATION]

21 Does this mean that you had taken  
22 your whole file with you?

23 MR. ROY: No, not at all. It was  
24 a file folder with two documents and that's all.

25 MR. DAVID: There was no

1 compilation of the other documents?

2 MR. ROY: No. No, no. It's ...

3 MR. DAVID: It was two documents?

4 MR. ROY: Yes, and the two  
5 documents, to be clear about it, which I did not  
6 have in my file, as I explained to you at the very  
7 outset ...

8 MR. DAVID: MM-hmm.

9 MR. ROY: ... was because it was  
10 just after the time when I had begun the system.  
11 You will no doubt remember that I mentioned to you  
12 that I did not have a document filing system as  
13 such. It was just after the two documents in  
14 question that I began to include a copy of  
15 everything that I took to the RCMP or that I took  
16 to Foreign Affairs from the RCMP.

17 MR. DAVID: All right. Then as to  
18 the two documents in question, Mr. ... Let's  
19 continue with the notes, perhaps, just to finish  
20 up on this matter.

21 Mr. Callaghan said:

22 [ENGLISH]

23 "It included a document where  
24 Arar had spoken with his  
25 brother and both were quite

1 concerned Arar could be sent  
2 to Syria."

3 [TRANSLATION]

4 Is that OK?

5 MR. ROY: Yes.

6 MR. DAVID:

7 [ENGLISH]

8 "Another document identified  
9 that he had obtained a  
10 lawyer."

11 [TRANSLATION]

12 On that point, I would like to  
13 refer back to two documents, Mr. Roy. Please take  
14 P-42, Volume 1, and I would like you to refer to  
15 Tab 10 and Tab 22.

16 Let's begin with Tab 10. It is a  
17 document, a CAMANT note, dated October 1, which  
18 says:

19 [ENGLISH]

20 "Brother called this morning  
21 in a state of panic. He said  
22 that subject was able to call  
23 him this morning from MDC and  
24 informed that he would be  
25 deported back to Syria where

1 he was born. Both, subject  
2 and brother are extremely  
3 afraid that he would be  
4 deported to Syria and not in  
5 Canada."

6 [TRANSLATION]

7 Now, in reading Mr. Callaghan's  
8 notes, and the way he described the document, and  
9 reading the document at Tab 10, do you feel that  
10 it is enough for you to remember that it was  
11 indeed Tab 10 that you had in your possession?

12 MR. ROY: Definitely not with any  
13 certainty. There may have been five other  
14 documents resembling this one.

15 The part I remember, because I  
16 read the two documents briefly, it had something  
17 to do with comments about one of his brothers.  
18 But other than that --

19 So what I can tell you is that it  
20 is highly likely, yes, indeed, that this is one of  
21 the two documents.

22 But I couldn't say for certain.

23 MR. DAVID: Did you read Tab 10 to  
24 prepare your testimony, Mr. Roy?

25 MR. ROY: Yes.



1                   To prepare my testimony is one  
2                   thing, but now I'm talking about three years ago  
3                   when I would have seen the document in question.  
4                   I do remember that his brother was mentioned.

5                   But three years have gone by and  
6                   as for telling you that it is exactly this one, it  
7                   is likely that it is. But I cannot say with  
8                   certainty based on my recollection that I read it  
9                   three years ago. That is what I am saying.

10                  MR. DAVID: In preparing your  
11                  testimony, did you read any other documents  
12                  referring to the two brothers and to any scenario  
13                  in which Mr. Arar would be in Syria?

14                  MR. ROY: No, I believe that is  
15                  the only one that I saw.

16                  MR. DAVID: You were shown no  
17                  other documents that may have contained this  
18                  combination of information, namely his brothers  
19                  and Syria?

20                  MR. ROY: No. I do not believe  
21                  so. No.

22                  MR. DAVID: Okay.

23                  So then, it is likely that it is  
24                  this document, but you cannot confirm it  
25                  absolutely.

1 MR. ROY: Precisely.

2 MR. DAVID: Okay.

3 With respect to the other  
4 document -- and I just wish to return to this  
5 matter, Mr. Roy -- the document at Tab 10 is a  
6 CAMANT note.

7 MR. ROY: Yes.

8 MR. DAVID: To the best of your  
9 recollection, is what you carried, the document  
10 you took to ASC, a CAMANT note?

11 MR. ROY: Yes, it was a consular  
12 letter.

13 MR. DAVID: You remember very  
14 clearly that it was a CAMANT note?

15 MR. ROY: Yes.

16 MR. DAVID: Okay.

17 And in both instances what was  
18 involved were CAMANT notes?

19 MR. ROY: Yes.

20 MR. DAVID: Okay.

21 Now let's move on to the other  
22 description, supplied by Mr. Callaghan, of the  
23 second document. This involved:

24 [ENGLISH]

25 "Another document identified

1                                   that he had obtained a  
2                                   lawyer."

3           [TRANSLATION]

4                                   And I would like you -- there are  
5           two documents that in the end may, I think, lend  
6           themselves to this sort of description.

7                                   I would like to begin by referring  
8           you to Tab 22 and secondly, to refer to Tab 35.  
9           Twenty-two (22) and thirty-five.

10                                  MR. ROY:  Yes.  There again, in my  
11           preparations, I looked at both documents, and I'm  
12           not able to tell you whether it was one or the  
13           other.

14                                  The recollection, the memory of a  
15           lawyer, that is Mr. --

16                                  MR. DAVID:  Callaghan's.

17                                  MR. ROY:  -- Callaghan's and not  
18           my own.

19                                  MR. DAVID:  So you did not even  
20           remember that the other document referred to a  
21           lawyer.

22                                  MR. ROY:  No.  I cannot.  No.

23                                  MR. DAVID:  Okay.

24                                  Now, you are a police officer.  
25           You have had experience as an investigator.

1 Looking at Tab 22, there is -- look at the last  
2 paragraph. It is entitled "Background". Do you  
3 have it?

4 MR. ROY: Yes.

5 MR. DAVID: It provides  
6 biographical information about Mr. Arar, to the  
7 effect that he had a master's in communication,  
8 that he worked for a company in Boston, that he  
9 had a valid visa for the United State, that he  
10 worked for two companies in Canada and that he was  
11 an independent consultant here in Canada, that he  
12 had two children aged such and such.

13 As an investigator, were you able  
14 to identify that document as perhaps being of more  
15 interest in terms of an RCMP investigation?

16 MR. ROY: My experience as an  
17 investigator has nothing to do with any of that  
18 because those documents were given to me by ISI,  
19 and I don't know about their experience as  
20 investigators.

21 They are the ones who decided.  
22 They decided which documents they were going to  
23 give me to take to the RCMP.

24 So I can't tell you --

25 MR. DAVID: So what you are saying

1 is that ISI identified the documents --

2 MR. ROY: I was not the one who  
3 selected them.

4 MR. DAVID: -- who chose the  
5 documents and gave them to you.

6 MR. ROY: Yes. I did not have  
7 access to that system.

8 MR. DAVID: Did you request the  
9 documents?

10 MR. ROY: No.

11 MR. DAVID: Were they delivered to  
12 you?

13 MR. ROY: Yes.

14 MR. DAVID: Without your asking  
15 for them?

16 MR. ROY: That's right.

17 MR. DAVID: Do you know who  
18 authorized this transfer of documents to the RCMP?

19 MR. ROY: To the RCMP? Or do you  
20 mean ISI?

21 MR. DAVID: Yes.

22 MR. ROY: Okay, to ISI. No, I  
23 don't know. I cannot tell you who authorized it,  
24 but I cant tell you that Mr. Heatherington had  
25 solid control over what was coming into and going

1 out of ISI. But other than that, I cannot tell  
2 you more.

3 MR. DAVID: Is it your  
4 understanding that authorization was required  
5 before documents from the CAMANT System could be  
6 delivered and transmitted to the RCMP?

7 MR. ROY: I am not aware of that.

8 MR. DAVID: You don't know.

9 So you don't know who authorized  
10 the transfer?

11 MR. ROY: No.

12 MR. DAVID: Were there any  
13 restrictions on the use to which you could put the  
14 documents?

15 MR ROY: I cannot recall the  
16 parameters that were given to me. I don't  
17 remember that.

18 But it is highly likely that,  
19 because I only showed them to Mr. Callaghan and  
20 did not give him a copy, it is possible that it  
21 could have been "read and return", "read and  
22 destroy" or --

23 But it's definitely based on that.  
24 I don't remember exactly what the limits were.

25 MR. DAVID: Okay.

1                   Now, the documents that we  
2 reviewed were all dated prior to October 8. In  
3 one instance, document 22 is dated October 2;  
4 document 35 is dated October 3; and document 10 is  
5 dated October 1.

6                   Can you remember when you were  
7 given a copy of those documents?

8                   MR. ROY: I can't remember exactly  
9 when I was given a copy of those documents, but  
10 based on the way I was operating, working, there,  
11 it is likely that it was immediately after  
12 receiving the documents in question that I would  
13 have gone there.

14                   In other words, I believe that it  
15 was that very morning. Possibly on the 7th. But  
16 it would have had to have been very late on the  
17 7th because, once again based on my notes, on the  
18 7th I was answering calls for assistance and was  
19 reading my predecessor's files, -- which indicates  
20 to me that I would have had time to go to the RCMP  
21 to give them to them.

22                   So there again, we are talking  
23 about assumptions. But based on how I worked, I  
24 assume that I would have received -- I believed  
25 that I would have received it on the morning of

1 the 8.

2 MR. DAVID: And it was Mr. Solomon  
3 who gave you those documents?

4 MR. ROY: I believe so. I have  
5 not yet -- I can't remember clearly. But it was  
6 on his monitor that I saw the other document I  
7 mentioned. The other document, or the document  
8 that I read.

9 I vaguely remember that the  
10 transaction took place there, that I would have  
11 received some documents. But it may not have been  
12 that way. But it was definitely at ISI that I  
13 received the documents. There is no doubt about  
14 that.

15 MR. DAVID: And you don't know who  
16 authorized the handover of the documents?

17 MR. ROY: Who authorized it? No.  
18 I can't tell you who authorized it.

19 MR. DAVID: But based on your  
20 experience, Mr. Roy, would authorization normally  
21 have been necessary before ISI could give you a  
22 copy of those two documents?

23 MR. ROY: Listen. Based on my  
24 experience, on what I know, on what I have  
25 observed, the answer is no.



1                   At the moment, I don't know.

2                   But it's clear that based on the  
3 testimony I have heard, I have learned that -- you  
4 know the answer in any event. You know where I'm  
5 headed.

6                   Based on my own knowledge, and my  
7 own experience, I do not know who is responsible  
8 for authorization.

9                   But based on the transcripts I  
10 read, it is JPO. It is Mr. Pardy who is  
11 responsible for authorization.

12                   But to be clear, I did not know  
13 that before reading it in the wake of your work.

14                   MR. DAVID: Were you asked to do  
15 something with those documents? Were you asked to  
16 share the contents?

17                   In other words, were the  
18 instructions from --

19                   MR. ROY: I mentioned earlier that  
20 I could not at all remember the limits in which --  
21 what the conditions were or anything else that may  
22 have been involved.

23                   But it's clear that I was in  
24 possession of the two documents, and had to give  
25 them to the RCMP. There is no doubt on that

1 score.

2 MR. DAVID: Okay.

3 Now, Mr. Roy, we saw that, in  
4 terms of content -- without necessarily referring  
5 to the physical documents as such.

6 But in terms of content, in one  
7 instance there was information to the effect that  
8 Mr. Arar was afraid of returning to Syria and that  
9 his brother also had the same fear.

10 My question is that -- and this  
11 information is in a document dated October 1.  
12 Thus 10.

13 MR. ROY: Yes.

14 MR. DAVID: Is it possible that  
15 you received or were informed of those contents  
16 prior to taking physical possession of the  
17 document on October 7 or 8?

18 MR. ROY: I do not believe so, no.

19 I have no recollection of that. I  
20 therefore do not believe that to have been the  
21 case.

22 MR. DAVID: You have no  
23 recollection, or memory, about that possibility?

24 MR. ROY: No.

25 MR. DAVID: Let's go on then.

1 I would like now to refer you to  
2 your notes. I am still working with P-206.

3 So it says -- Okay, you're with  
4 me? P-206, still on October 8, second paragraph:

5 [ENGLISH]

6 "Approx. 10:45hrs ... "

7 [TRANSLATION]

8 (As read)

9 Someone came.

10 [ENGLISH]

11 " ... came. Discussion on  
12 Maher?? Not issue don't know  
13 when out it is. Discussed."

14 [TRANSLATION]

15 (As read)

16 So if I have understood properly,  
17 someone came to the A-O-C office when you were  
18 there -- interrogation.

19 MR. ROY: Yes.

20 MR. DAVID: -- and there was a  
21 meeting or a discussion about Mr. Arar.

22 MR. ROY: Yes.

23 MR. DAVID: What do you remember  
24 about this discussion? What was involved?

25 MR. ROY: No. I remember what was

1 at issue, but it's blacked out. I therefore  
2 presume that I cannot really discuss it.

3 MR. DAVID: Okay.

4 MR. BAXTER: I think,  
5 Mr. Commissioner, that we can say that what was  
6 involved was an American, but no more than that.

7 THE COMMISSIONER: Okay.

8 MR. DAVID: On the next page,  
9 page 21 of your notes, you say:

10 [ENGLISH]

11 "Would like to interview  
12 him."

13 [TRANSLATION]

14 (As read)

15 MR. ROY: Yes.

16 MR. DAVID: This involved

17 Mr. Arar?

18 MR. ROY: Yes.

19 MR. DAVID: It was the RCMP that  
20 wanted --

21 MR. ROY: Yes.

22 MR. DAVID: Who told you that?

23 The members of A-O-C?

24 MR. ROY: Yes.

25 MR. DAVID: And there you say:

1 [ENGLISH]  
2 "Shared info on case note  
3 regarding state of mind of  
4 Mr. Arar (afraid to go to  
5 Syria)."  
6 [TRANSLATION]  
7 (As read)  
8 MR. ROY: Yes.  
9 MR. DAVID:  
10 [ENGLISH]  
11 "Shared info on case note ...  
12 "  
13 [TRANSLATION]  
14 (As read)  
15 Is that in reference to the CAMANT  
16 note?  
17 MR. ROY: It refers to the one I  
18 mentioned to you that I read.  
19 MR. DAVID: Okay.  
20 And then you say:  
21 [ENGLISH]  
22 "To do list on left page ...  
23 "  
24 [TRANSLATION]  
25 (As read)

1                   So it's on the left hand page in  
2           your notes?

3                   MR. ROY: Yes, that's right.

4                   MR. DAVID:

5           [ENGLISH]

6                    "To speak to Mike Cabana and  
7                   Rick RE: Arar in New York  
8                   jail. More questions to be  
9                   asked."

10           [TRANSLATION]

11                   (As read)

12                   To what are you referring there?

13                   MR. ROY: I believe that's -- yes  
14           on the left side. These are things for me to do,  
15           questions I want to ask or whatever.

16                   I don't remember that it was a  
17           task anyone assigned to me.

18                   MR. DAVID: But you have a  
19           concern. You learned -- on the line above, that  
20           they wanted to question Mr. Arar. The RCMP wanted  
21           to interrogate Mr. Arar.

22                   MR. ROY: Yes.

23                   MR. DAVID: And then, for action,  
24           you say: I need to talk about it to Rick and then  
25           I need to talk to Mike Cabana.

1 MR. ROY: I couldn't tell you. I  
2 can't remember the exact meaning of it.

3 MR. DAVID: Of your note?

4 MR. ROY: No.

5 MR. DAVID: Were you concerned  
6 about this idea, this plan, to continue to  
7 interrogate Mr. Arar when he was being held in New  
8 York?

9 MR. ROY: Concerning -- no. Not  
10 at all.

11 MR. DAVID: Okay.

12 Let us now return Mr. Roy to your  
13 time line, P-208, if you will. Please refer to  
14 October 8.

15 You say:

16 [ENGLISH]

17 "I shared information with  
18 INSET ... "

19 [TRANSLATION]

20 (As read)

21 That's the last paragraph.

22 [ENGLISH]

23 " ... from Case note  
24 regarding state of mind of  
25 Arar (to the effect he was





1           probably about what you mentioned earlier about  
2           another person.

3                           It has nothing to do with me. I  
4           wasn't listening -- I would not have been there.

5                           MR. DAVID: Okay.

6                           I would now like to file the  
7           personal notes of another investigator for that  
8           day -- and to refer you to them, Mr. Roy.

9                           EXHIBIT P-213: Personal  
10                           notes of another  
11                           investigator.

12           [ENGLISH]

13                           THE COMMISSIONER: Two  
14           thirteen (213).

15                           MR. DAVID: Thank you.

16           [TRANSLATION]

17                           These then are the personal notes  
18           of another investigator for October 8.

19                           At the bottom of the page,  
20           Mr. Roy, there is an entry. I think that although  
21           the time is entered incorrectly or is not very  
22           clear, that it is 10:00 a.m.

23                           It says:

24           [ENGLISH]

25                           "With Richard Roy LO DFAIT



1 MR. ROY: No. And the reference  
2 in the notes to preparation occurred before I had  
3 even mentioned that he was afraid of going to  
4 Syria.

5 I am presuming that the "if" --  
6 the investigators would have to be asked, but the  
7 "if" means that there may be a possibility that he  
8 would be going to Ottawa instead of Montreal.

9 I am presuming. I am in no  
10 position to say so, but that would be my -- that  
11 is certainly an option.

12 MR. DAVID: Okay.

13 I would now like to refer you to  
14 P-19, Mr. Roy.

15 [ENGLISH]

16 THE COMMISSIONER: It is 1:00.  
17 Should we, Mr. David --

18 MR. DAVID: Okay. We can break.

19 THE COMMISSIONER: This is good.

20 MR. DAVID: Sure.

21 THE COMMISSIONER: This a  
22 convenient point?

23 MR. DAVID: Yes.

24 So we will break until 2:00,  
25 Mr. Commissioner?

1 THE COMMISSIONER: Until 1:30.

2 MR. DAVID: I'm sorry, 1:30.

3 THE COMMISSIONER: The reason  
4 being we did take a forty-minute break earlier  
5 this morning.

6 [TRANSLATION]

7 MR. DAVID: We will be resuming at  
8 1:30 p.m., then.

9 [ENGLISH]

10 THE COMMISSIONER: I know it will  
11 be a bit of an inconvenience for some, but let us  
12 try to make up the lost time.

13 MR. DAVID: Yes.

14 THE COMMISSIONER: Okay, so we  
15 will rise until 1:30.

16 --- Upon recessing at 1:00 p.m. /

17 Suspension à 13 h 00

18 --- Upon resuming at 1:32 p.m.

19 Reprise à 13 h 32

20 [TRANSLATION]

21 MR. DAVID: Mr. Roy, you have  
22 Exhibit P-19, The Garvie Report, before you. I  
23 would like to refer you to page 25, an entry for  
24 October 8, which states:

25 [ENGLISH]

1 "Insp. Roy was updated by  
2 A-OCANADA investigators about  
3 ARAR's situation as they knew  
4 it at the time. Insp. Roy  
5 told the investigators that  
6 he was unaware of ARAR's  
7 imminent deportation to  
8 Canada, however he stated  
9 that he knew that ARAR was  
10 still in custody and that  
11 there was a possibility that  
12 ARAR would be sent to Syria.  
13 Insp. Roy is only able to  
14 confirm that the information  
15 that he received most likely  
16 came from a DFAIT colleague."

17 [TRANSLATION]

18 So the information you received  
19 most likely from a DFAIT colleague concerns the  
20 possibility that he be deported to Syria, the  
21 possibility that Mr. Arar would be deported to  
22 Syria?

23 MR. ROY: No; Mr. Arar's fear that  
24 he would be deported to Syria.

25 MR. DAVID: Fear. But you agree

1 with me that Mr. Garvie's summary does not reflect  
2 a subjective element, the fear that ...

3 The Garvie Report says "There ...  
4 "

5 MR. ROY: Yes, if we could  
6 continue on that point, it is ... please continue.

7 MR. DAVID: Okay.

8 [ENGLISH]

9 "Insp. Perron commented in  
10 his report that is discussed  
11 later, that Insp. Roy had  
12 obtained the information  
13 having read a consular visit  
14 card that documented ARAR's  
15 fear of being deported to  
16 Syria."

17 [TRANSLATION]

18 And the Consular visit card, is  
19 that a reference to the comment note?

20 MR. ROY: Yes.

21 MR. DAVID: Okay. What was the  
22 reaction of the A-OCANADA members when you told  
23 them about this fear scenario?

24 MR. ROY: When I mentioned that he  
25 was afraid, what I noted was that one of the

1           investigators who was there repeated "Syria,"  
2           which meant that this was not something that had  
3           been considered at their level either, because as  
4           I mentioned earlier that at ISI, what I told you  
5           in connection with 9.

6                                So it was the reaction that I  
7           noted.

8                                MR. DAVID:    So a reaction of  
9           surprise?

10                              MR. ROY:    I would describe it that  
11           way, yes.

12                              MR. DAVID:    Was it taken  
13           seriously?  Was it simply set aside as not being  
14           realistic?

15                              MR. ROY:    I could not tell you  
16           that.  I don't know.

17                              MR. DAVID:    Okay.  After leaving  
18           the A Division's Project A-O-C, the question  
19           arises as to whether you also reported the content  
20           of these documents to C.I.D. headquarters?

21                              Do you remember anything like  
22           that?

23                              MR. ROY:    No.  I talked about that  
24           somewhat earlier, to the effect that it is no  
25           doubt what I did because that is what I would

1 normally have done, and I remember having thought  
2 about it, but I cannot remember, that is to say  
3 the person I dealt with or ... I cannot remember  
4 at all.

5 MR. DAVID: This means that you  
6 ... you cannot remember whether you met  
7 Mr. Flewelling about those documents?

8 MR. ROY: Or anyone else.

9 MR. DAVID: Or anyone else. Do  
10 you recollect whether copies were filed and left  
11 with headquarters?

12 MR. ROY: No. No recollection.

13 MR. DAVID: Okay. But your normal  
14 practice would have been to go to headquarters,  
15 and report, normally?

16 MR. ROY: Yes. Definitely yes.

17 MR. DAVID: And normally, the  
18 person to whom you would have spoken would have  
19 been Mr. Flewelling?

20 MR. ROY: If he was there, yes.

21 MR. DAVID: Okay.

22 Mr. Commissioner, I would like to file a document  
23 simply for the record. It is a SitRep dated  
24 October 8, that describes Mr. Roy's presence at  
25 A-OCANADA. Simply for the record.



1 THE REGISTRAR: 214.

2 MR. DAVID: Thank you.

3 EXHIBIT P-214: SitRep dated  
4 October 8

5 MR. DAVID: We are now going to  
6 move to October 9, Mr. Roy. I would like to refer  
7 you to two documents.

8 The first is your personal notes  
9 and I would like to refer you to page 21. We will  
10 also look at Mr. Callaghan's notes.

11 So in your notes for the 9th,  
12 there is an entry for 10:05 a.m.:

13 [ENGLISH]

14 "Call from ... "

15 [TRANSLATION]

16 -- someone --

17 [ENGLISH]

18 "He spoke to ... at 9:05 on  
19 his cell. Had wanted to know  
20 if he was held for, where he  
21 will go after the process  
22 prior to us going interview  
23 him, he was told 'not  
24 available', he was no longer  
25 there, not coming to Canada."

1 [TRANSLATION]

2 So, this is a reference to  
3 Mr. Arar?

4 MR. ROY: Yes.

5 MR. DAVID: And this is a  
6 reference you learned from a member of A-O-C?

7 MR. ROY: Yes.

8 MR. DAVID: To the effect that  
9 Mr. Arar was, firstly, no longer in New York?

10 MR. ROY: That's correct.

11 MR. DAVID: Was it also that he  
12 was no longer in the United States or simply in  
13 New York?

14 MR. ROY: I presume no longer in  
15 the United States. Can I re-read it?

16 MR. DAVID: Yes, yes.

17 MR. ROY: I simply want to re-read  
18 it.

19 MR. DAVID: Absolutely.

20 MR. ROY: I don't know what my  
21 presumption was.

22 MR. DAVID: Okay. It's all right.  
23 So certainly New York, and perhaps the United  
24 States?

25 MR. ROY: Yes.

1 MR. DAVID: Okay. And that he  
2 wasn't coming to Canada?

3 MR. ROY: That's right.

4 MR. DAVID:

5 [ENGLISH]

6 "Told him I was to advise my  
7 counterpart and see what he  
8 can find out."

9 [TRANSLATION]

10 MR. ROY: That's right.

11 MR. DAVID: Who then?

12 MR. ROY: Solomon.

13 MR. DAVID: Mr. Solomon?

14 MR. ROY: Yes, to see what he  
15 could find out.

16 MR. DAVID: Find out, be aware of.

17 MR. ROY: What he could find out.

18 MR. DAVID: Okay:

19 [ENGLISH]

20 "Advised Jonathan who is  
21 going to see person  
22 responsible for case. Major  
23 player is away for a few  
24 days."

25 [TRANSLATION]

1                                   Was that Mr. Pardy who was out of  
2                   the country?

3                                   MR. ROY:   Yes.

4                                   MR. DAVID:  And do you know  
5                   whether Mr. Solomon followed up on your  
6                   information?

7                                   MR. ROY:   Yes.  Yes he left  
8                   immediately.

9                                   MR. DAVID:  Okay.  Do you know  
10                  whom he saw?

11                                  MR. ROY:   At consular, no, I don't  
12                  know who it was, or who the contact is that he  
13                  saw.

14                                  MR. DAVID:  Okay.  Does the name  
15                  Helen Harris mean anything to you?

16                                  MR. ROY:   Yes, I know Helen.  It's  
17                  quite possible that it might have been her, but I  
18                  cannot tell you with any certainty who he went to  
19                  see.

20                                  MR. DAVID:  He didn't tell you?

21                                  MR. ROY:   No.

22                                  MR. DAVID:  Okay:

23                   [ENGLISH]

24    "It is clear that he is not  
25    to mention what I have said

1 to him. He put his hand to  
2 throat left to right and  
3 zipped his mouth."

4 [TRANSLATION]

5 What was he referring to?

6 MR. ROY: It indicates quite  
7 simply ... what it means is an agreement between  
8 Mr. Solomon and myself. He said all right when I  
9 told him, don't talk about it, because I was  
10 concerned about the source of information and  
11 instead of telling me "okay", what I would have  
12 written was okay, he simply made the sign. It was  
13 definitely meant for me because I was  
14 uncomfortable owing to the information.

15 Mr. Solomon left immediately and  
16 went to corroborate the information I had given  
17 him to the effect that he had left. He returned  
18 and that is when he said what follows.

19 MR. DAVID:

20 [ENGLISH]

21 "10:43 -- Jonathan and I  
22 spoke to Jim Gould. He  
23 advised Jonathan to contact  
24 Helen Harris when I inquired  
25 as to his whereabouts. He

1                   wondered if Guantanamo Bay  
2                   could be another option  
3                   possibility as to his  
4                   whereabouts."

5           [TRANSLATION]

6                   Is that Mr. Gould speculating?

7                   MR. ROY:   Yes.

8                   MR. DAVID:  This was before  
9           Mr. Solomon went to see Mr. Pardy's replacement?

10                  MR. ROY:  No, after.

11                  MR. DAVID:  After?

12                  MR. ROY:  After, once it had been  
13           confirmed that he was no longer there.

14                  MR. DAVID:  Okay.

15           [ENGLISH]

16                   "Approximately 12:50, advises  
17                   me that Arar is now in Syria  
18                   according to ... to advise my  
19                   counterpart.  Done  
20                   immediately.  Scott, Jim,  
21                   Don."

22           [TRANSLATION]

23                   Does this mean that your  
24           counterparts are Scott, Jim and Don, or  
25           counterparts at the RCMP?

1 MR. ROY: No, no. People with  
2 whom I work at ISI.

3 MR. DAVID: Okay.

4 MR. ROY: Scott Heatherington, Jim  
5 Gould and Don Saunders.

6 MR. DAVID: And of course you  
7 shared that, with whom?

8 MR. ROY: With those three people.

9 MR. DAVID: With those three  
10 people. Did you share the information with the  
11 RCMP, colleagues at the RCMP?

12 MR. ROY: No. They were the ones  
13 who sent me the notice.

14 MR. DAVID: They did what?

15 MR. ROY: The information that I  
16 gave to ISI ...

17 MR. DAVID: Yes.

18 MR. ROY: ... came from the RCMP.

19 MR. DAVID: Yes. But on the other  
20 hand, I understood that ISI was also conducting  
21 their own research, taking their own steps to try  
22 to understand what had happened?

23 MR. ROY: What I am telling you is  
24 that it was determined that he was now in Syria.

25 MR. DAVID: Yes.

1 MR. ROY: I was advised ... The  
2 RCMP advised me of this and I told the people at  
3 ISI. That's all.

4 MR. DAVID: Okay.

5 MR. ROY: I did not contact anyone  
6 else.

7 MR. DAVID: Perfect. Thank you.  
8 We will now move on to the 16th  
9 ... No, sorry. Just before leaving the 9th, let  
10 us look at Mr. Callaghan's personal notes.

11 If we could file these notes for  
12 October 9 as Exhibit P-215.

13 EXHIBIT P-215: Pat  
14 Callaghan's personal notes.

15 --- Pause / Pause

16 MR. DAVID: The reference is to  
17 the second of three pages, Mr. Roy. At 5:05 ,  
18 Mr. Callaghan telephoned you:

19 [ENGLISH]

20 "At 5:05 I left the meeting  
21 and called Richard Roy. I  
22 informed him of the news on  
23 Arar."

24 [TRANSLATION]

25 Is that the reference? It's at



1 the bottom of the page.

2 MR. ROY: Yes, that would be the  
3 reference.

4 MR. DAVID: That's the reference.  
5 So Mr. Callaghan was calling you at the end of the  
6 day?

7 MR. ROY: Yes.

8 MR. DAVID: And that is when he  
9 told you: according to our information ...

10 MR. ROY: I would have to read it  
11 a little just before that.

12 MR. DAVID: No, it's okay. Take  
13 your time.

14 --- Pause / Pause

15 MR. ROY: That's right. We're  
16 speaking about the 9th there. So it would have to  
17 be this time. That's nothing but the time, you  
18 said the end of the day, but ...

19 MR. DAVID: It would seem to me  
20 that it says 5:05.

21 MR. ROY: No. The time I have is  
22 12:50. So I think that what is missing is "1" and  
23 "2".

24 MR. DAVID: It's possible. It's  
25 possible. The quality of the photocopy is not

1 very good.

2 MR. ROY: In any event, it  
3 confirms that I was advised.

4 MR. DAVID: Very well.

5 Let us now move on to October 16,  
6 and I refer you again to your personal notes. On  
7 pages 22 and 23. What is involved is a meeting  
8 held at the ISI office at the department. Several  
9 people attended. There was Mr. Pilgrim for the  
10 RCMP, Mr. Heatherington, Solomon, Mr. Saunders,  
11 Ms. Collins, Mr. Pardy; there was also a  
12 representative from the Secret Intelligence  
13 Service or rather the Canadian Intelligence  
14 Service I mean. And basically, it's Mr. Pardy who  
15 chaired that meeting?

16 MR. ROY: That is correct.

17 MR. DAVID: And Mr. Pardy wanted  
18 to know ... wanted to understand in fact, and to  
19 try to reconstruct the facts and understand what  
20 had happened and be able to somewhat explain what  
21 exactly the string of events was with respect to  
22 Mr. Arar?

23 MR. ROY: Yes.

24 MR. DAVID: Your notes say, on  
25 line three of your entry for October 16:

1 [ENGLISH]

2 "Scott gave background. He  
3 mentioned not been able to  
4 get involved in the  
5 investigation."

6 [TRANSLATION]

7 You seem to be saying that  
8 Heatherington said that he was unable to get  
9 involved in the investigation.

10 MR. ROY: No. What he was saying  
11 was ... he said where we were precisely at that  
12 point. And after that, he clarified the fact that  
13 he realized that, as a member of Foreign Affairs,  
14 he could not be aware of just how everything went  
15 on within the investigations. The police  
16 investigations are for the police. That is simply  
17 what he was saying.

18 MR. DAVID: Okay.

19 We will now refer to  
20 Exhibit P-137. Just to follow up on that  
21 October 16 meeting. It is a document that was  
22 given to you by Mr. Pilgrim on October 18, P-137,  
23 and I would like to refer you to page 5. It is  
24 what we have come to call the Pilgrim memo. Thus  
25 it is the RCMP's follow-up action to Mr. Parady's

1 requests. This was given to you and you passed it  
2 on to the appropriate people ...

3 MR. ROY: Exactly.

4 MR. DAVID: ... namely Mr. Pardy?

5 MR. ROY: Not Mr. Pardy, but  
6 Mr. Heatherington, I believe, but at ISI.

7 MR. DAVID: Okay.

8 We move on now to October 22, and  
9 I would like to refer you to a new exhibit, a new  
10 exhibit which is a document dated October 22,  
11 P-216.

12 P-216, Mr. Commissioner.

13 EXHIBIT P-216: Fax from  
14 Richard Roy dated October 22,  
15 2002

16 MR. DAVID: If you go to page 3,  
17 you will see that it is a report or a document  
18 that Ambassador Pillarella wrote about a meeting  
19 he had with the Chief of Syrian Intelligence,  
20 called the SMI, Syrian Military Intelligence, his  
21 meeting with General Khalil of Syria.

22 MR. ROY: Yes.

23 MR. DAVID: It is a document that  
24 was, apparently, transmitted to personnel at  
25 Foreign Affairs and on page 1 of the document we

1 see that the document was sent by you on  
2 October 22 to headquarters.

3 MR. ROY: That is correct.

4 MR. DAVID: Who gave you that  
5 document?

6 MR. ROY: I'll check ...

7 MR. DAVID: Of course.

8 MR. ROY: ... my ... Can you tell  
9 me once again where my ... not my notes, but my  
10 ... my time line, please?

11 MR. DAVID: Your time line, that  
12 is Exhibit P-208.

13 MR. ROY: I may have written it  
14 down here, I'm not sure. It's someone at ISI if  
15 that's all you want to know. Unless I'm mistaken.  
16 As to precisely who it was, that is what I am  
17 trying to find. No, I did not write it down, but  
18 it was someone at ISI.

19 MR. DAVID: Okay. You can't  
20 remember who?

21 MR. ROY: No.

22 MR. DAVID: Before such a document  
23 was given to you for distribution, because it was  
24 distributed at headquarters as well, and if you  
25 look at page 2, you will see that from

1           headquarters, the document ... the second page of  
2           the document.

3                         MR. ROY: Yes, I have it.

4                         MR. DAVID: The document went to  
5           Project A-O-C from headquarters.

6                         MR. ROY: Yes.

7                         MR. DAVID: So my question, is  
8           before receiving such a document, would  
9           authorization be required from the Department of  
10          Foreign Affairs for it to be distributed ...

11                        MR. ROY: Within the RCMP?

12                        MR. DAVID: Yes.

13                        MR. ROY: Not that I am aware of.

14                        MR. DAVID: No not inside ...  
15          Excuse me. Is authorization required within the  
16          Department of Foreign Affairs? That is what I am  
17          asking.

18                        MR. ROY: Oh! Okay. I don't  
19          know.

20                        MR. DAVID: It's a document ...

21                        MR. ROY: I don't know.

22                        MR. DAVID: You don't know?

23                        MR. ROY: No.

24                        MR. DAVID: So you don't know who  
25          would have authorized it, if authorization had

1           been granted for such distribution ...

2                           MR. ROY: I don't know whether  
3 authorization is required.

4                           MR. DAVID: Okay. And were there  
5 conditions attached to the way in which the  
6 document could be distributed within the RCMP?

7                           MR. ROY: No. I am not aware of  
8 any caveats there, or any distribution  
9 restrictions. Is that what you meant?

10                          MR. DAVID: Yes.

11                          MR. ROY: No.

12                          MR. DAVID: If there were any  
13 conditions to be applied.

14                          MR. ROY: I am not aware of any,  
15 no.

16                          MR. DAVID: And why would you have  
17 been sent that document for distribution to the  
18 RCMP? Were you told why?

19                          MR. ROY: No.

20                          MR. DAVID: We now move to  
21 October 24, Mr. Roy, Exhibit P-93. It is a  
22 consular report, and I refer you to your personal  
23 notes on page 23. The entry is for October 24.

24                          I will allow the Clerk to catch  
25 up.

1 THE CLERK: Thank you.

2 MR. DAVID: P-93, Mr. Roy, you see  
3 ... you have the document?

4 MR. ROY: Yes.

5 MR. DAVID: Please consult it.  
6 You will see that it refers to a visit ... a  
7 report on a consular visit with Mr. Arar in Syria  
8 by the Canadian authorities from the Department of  
9 Foreign Affairs ...

10 MR. ROY: Yes.

11 MR. DAVID: ... dated October 23,  
12 and your notes on page 23 for October 24 state:

13 [ENGLISH]

14 "Approximately 1500 hours in  
15 DFAIT consular report on Arar  
16 given to me and I am told to  
17 give copy to ... "

18 [TRANSLATION]

19 -- someone.

20 [ENGLISH]

21 And then you got a call from  
22 somebody who also wants a copy.

23 [TRANSLATION]

24 You see?

25 MR. ROY: Yes, two persons from



1 the RCMP.

2 MR. DAVID: So it was within the  
3 RCMP that you were distributing ...

4 MR. ROY: Yes.

5 MR. DAVID: Okay. Who then asked  
6 you to distribute the document? Within Foreign  
7 Affairs, who asked you to distribute the document  
8 to the RCMP?

9 MR. ROY: I cannot remember who it  
10 was, but it was someone again from ISI. It was at  
11 ISI that I received the documents.

12 MR. DAVID: And once again, was  
13 authorization given to you ... to your knowledge  
14 was there any authorization to distribute the  
15 document?

16 MR. ROY: I am not aware of that.

17 MR. DAVID: Based on our  
18 understanding of the policies ... the procedures  
19 at Foreign Affairs, it would require Mr. Pardy's  
20 authorization for that type of document to be  
21 shared, or distributed to the RCMP. Were you ever  
22 aware that Mr. Pardy was involved in the decision  
23 to distribute the document, to share it with the  
24 RCMP?

25 MR. ROY: I don't know.

1 MR. DAVID: Were there conditions  
2 on the distribution of that document to the RCMP?

3 MR. ROY: No.

4 MR. DAVID: Restrictions?

5 MR. ROY: No.

6 MR. DAVID: Okay.

7 We now move on to October 25,  
8 which leads us to a new exhibit. It is Exhibit  
9 ... the personal notes of Mr. Callaghan dated  
10 October 25.

11 --- Pause / Pause

12 EXHIBIT P-217: Pat  
13 Callaghan's personal notes.

14 THE COMMISSIONER: 217.

15 MR. DAVID: 217, thank you.

16 There is an entry at 1345,

17 Mr. Roy, which says:

18 [ENGLISH]

19 "Richard Roy of DFAIT  
20 arrived. I received a  
21 two-page document from him."

22 [TRANSLATION]

23 Quite simply then, to your  
24 knowledge, does this involve, do you recollect,  
25 whether it is the consular report of October 23 or

1 is it Mr. Pillarella's report of October 22? Can  
2 you remember this?

3 MR. ROY: I believe it is the one  
4 that someone else contacted me about, the one from  
5 the 24th.

6 MR. DAVID: The 24th?

7 MR. ROY: The 24th.

8 MR. DAVID: The consular report

9 ...

10 MR. ROY: Yes.

11 MR. DAVID: ... concerning the  
12 visit to Syria?

13 MR. ROY: I believe so, yes.

14 MR. DAVID: Okay. Thank you.

15 We will now go to November 6 and I  
16 refer you to page 24 of your notes. It concerns a  
17 meeting about the proposed trip by the Canadian  
18 Security Intelligence Service to Syria and that  
19 gets us to page ...

20 I would also like to refer to your  
21 time line, Mr. Roy, and for your entry that would  
22 be page 3 of 9.

23 So on November 6, in your time  
24 line, you say:

25 [ENGLISH]

1 "1635 -- meeting at DFAIT  
2 with Franco Pillarella,  
3 Ambassador in Syria.  
4 Discussed where the  
5 expectations of the Syrians  
6 and CSIS meet. Copy of brief  
7 of the case of Maher Arar  
8 (Arabic) given to  
9 Superintendent Pilgrim (see  
10 file)."

11 [TRANSLATION]

12 My question is what is referred to  
13 here, the "Copy of brief of the case of Maher Arar  
14 (Arabic)"? Do you know?

15 MR. ROY: Yes, that would be what  
16 we might call a statement perhaps.

17 MR. DAVID: The statement ...

18 MR. ROY: In Arabic.

19 MR. DAVID: ... in Arabic, from  
20 Mr. Arar ...

21 MR. ROY: Mm-hmm.

22 MR. DAVID: ... obtained by the  
23 Syrian authorities and transmitted by  
24 Mr. Pillarella to the Canadians?

25 MR. ROY: Yes. It was not

1 Mr. Pillarella who gave it to me ...

2 MR. DAVID: No.

3 MR. ROY: ... to hand it out, but  
4 that's it.

5 MR. DAVID: Okay. Who gave you  
6 the document?

7 MR. ROY: I'm not certain. I  
8 thought it was Mr. Heatherington, but I'm not  
9 100 percent sure. I am sure, on the other hand,  
10 that it was somebody at ISI.

11 MR. DAVID: And here again, to  
12 your knowledge, who authorized your sharing this  
13 document with headquarters, including Mr. Pilgrim?

14 MR. ROY: I can't tell you.

15 MR. DAVID: To your knowledge, it  
16 was never discussed?

17 MR. ROY: Not as far as I know,  
18 no.

19 MR. DAVID: You were given the  
20 document at your level?

21 MR. ROY: That's right.

22 MR. DAVID: And were you asked to  
23 share it with headquarters?

24 MR. ROY: Yes, yes. I gave it to  
25 Mr. Pilgrim.

1 MR. DAVID: Okay. Was it ... to  
2 your knowledge did you distribute it within A-O-C?

3 MR. ROY: No.

4 MR. DAVID: Only headquarters?

5 MR. ROY: Yes. Mr. Pilgrim was at  
6 the meeting. If I am not mistaken, I gave it to  
7 him immediately afterwards.

8 MR. DAVID: And to your knowledge,  
9 were there discussions at the RCMP, at your level,  
10 at the level of your colleagues at the RCMP, about  
11 the reliability to be assigned to this statement?

12 MR. ROY: Not any that I was  
13 involved in.

14 MR. DAVID: Okay. Did you have  
15 discussions ... Were you aware of any discussions  
16 about how the document that came from Syria may  
17 have been obtained through torture?

18 MR. ROY: No. I was not involved  
19 in any discussion of that kind, no.

20 MR. DAVID: Were there discussions  
21 or comments about the level of respect for human  
22 rights in Syria or not?

23 MR. ROY: When?

24 MR. DAVID: At the time.

25 MR. ROY: At the meeting itself?

1 MR. DAVID: At the meeting.

2 MR. ROY: Yes, a woman there  
3 mentioned it, as is written in my time line,  
4 rspecting their methods.

5 MR. DAVID: Mm-hmm.

6 MR. ROY: And I believe that there  
7 had been discussion of human rights, but not  
8 torture as such, no. I never heard anything to  
9 that effect.

10 MR. DAVID: Okay.

11 Now, for November 18, I would like  
12 to refer you to pages 24 and 25 of your notes. On  
13 page 24 at the bottom, you referred to the date,  
14 the 18th, and on page 25, you wrote the following:  
15 [ENGLISH]

16 "1335 Pilgrim. Solicitor  
17 General called Friday and  
18 warned of DFAIT employee.  
19 Was told by Powell right hand  
20 that if he were to be asked  
21 about Arar that he would have  
22 said RCMP was supporting of  
23 his transfer. Jonathan said  
24 that during meeting Powell  
25 said that law enforcement was

1                   aware of what was going on  
2                   and orally, not in meeting  
3                   notes, that law enforcement  
4                   asked to have him sent away."

5           [TRANSLATION]

6                   So let's consider the first  
7           paragraph. These are your personal notes,  
8           Mr. Roy, in connection with what you noted at a  
9           meeting between Mr. Powell and Mr. Graham, the  
10          Minister of Foreign Affairs. Was that the  
11          context?

12                   MR. ROY: In the first paragraph,  
13          the subject of discussion is the Solicitor  
14          General.

15                   MR. DAVID: Yes, I'm sorry. You  
16          are right of course and my reference is mistaken  
17          because on November 15, there was a meeting  
18          between Mr. Graham and Mr. Powell. But here, what  
19          is involved is another matter.

20                   It was the Solicitor General,  
21          Mr. Wayne Easter, who called someone on Friday, as  
22          you noted.

23                   My first question is whether this  
24          information came from Mr. Pilgrim? You mentioned  
25          Pilgrim at the top of the page.



1                   MR. ROY: Yes, that's it. I'm not  
2 certain. I believe so, but I'm not certain. I  
3 would think that yes, unless it was information  
4 that I was supposed to pass on to Wayne Pilgrim,  
5 but he was probably the one who advised me of it.

6                   MR. DAVID: Okay.

7                   MR. ROY: But I'm not 100 percent  
8 certain. I cannot see clearly from this note.

9                   MR. DAVID: Okay. So in that note  
10 again:

11                  [ENGLISH]

12                                 "Solicitor General called  
13                                 Friday and warned of DFAIT  
14                                 employee. Was told by Powell  
15                                 right hand ... "

16                  [TRANSLATION]

17                                 What is this entry referring to?  
18                                 Who called ... Who did the Solicitor General call?

19                   MR. ROY: But if ... I don't know  
20 who. It may have been Mr. Pilgrim or his office  
21 or the RCMP ...

22                   MR. DAVID: Okay.

23                   MR. ROY: ... it is likely, but I  
24 don't know. I don't know ... I can't tell you any  
25 more about it other than what I am reading there

1 or you yourself are reading there ...

2 MR. DAVID: Except that clearly  
3 noted is the idea that there was someone, the  
4 Minister or someone from his office, his  
5 department, who called someone at the RCMP,  
6 perhaps Mr. Pilgrim and gave him a warning. That  
7 is what you noted.

8 MR. ROY: Yes.

9 MR. DAVID:

10 [ENGLISH]

11 " ... warned of DFAIT  
12 employee ... "

13 [TRANSLATION]

14 So an employee from the Department  
15 of Foreign Affairs received the information from  
16 Mr. Powell ... from Mr. Powell's right hand  
17 man ...

18 MR. ROY: Yes.

19 MR. DAVID: ... so one of  
20 Mr. Powell's assistant?

21 MR. ROY: Yes.

22 MR. DAVID: That is what you were  
23 noting?

24 MR. ROY: Yes, absolutely.

25 MR. DAVID: That:

1 [ENGLISH]

2 "If he were asked, if he were  
3 to be asked about Arar ... "

4 [TRANSLATION]

5 And here, I am asking who ... to  
6 whom are you referring?

7 MR. ROY: Powell, I would imagine.

8 MR. DAVID: Powell, Okay:

9 [ENGLISH]

10 "And he would ... ",

11 [TRANSLATION]

12 I would imagine that it's "have"?

13 MR. ROY: He would have said.

14 MR. DAVID: He would have said?

15 MR. ROY: He would have said that  
16 the RCMP was supporting his transfer.

17 MR. DAVID: So are we to  
18 understand here that Mr. Powell was of the opinion  
19 ...

20 MR. ROY: Yes.

21 MR. DAVID: ... or understood  
22 that the RCMP gave its blessing to Mr. Arar's  
23 transfer?

24 MR. ROY: That is what it says  
25 there. It does not clearly state Mr. Powell.

1           There were lots of people involved, there is a lot  
2           of hearsay, but that is indeed the essence.

3                       MR. DAVID:  Yes, but the idea is  
4           that ... okay.  The idea is that there was ...  
5           the transfer of Mr. Arar from the United States to  
6           Syria, I would imagine, would have been sanctioned  
7           or approved or that there was some sign of  
8           approval for this action from the RCMP.

9                       Is that what you were noting?

10                      MR. ROY:  Well, that is highly  
11           likely what would have been said.  That is what it  
12           says.

13                      MR. DAVID:  Now, I want to say,  
14           it's nevertheless startling information.  You  
15           agree that...

16                      MR. ROY:  If the source is correct  
17           there...

18                      MR. DAVID:  If it's true, it's  
19           nevertheless... it will be on page one tomorrow  
20           morning?

21                      MR. ROY:  Yes.

22                      MR. DAVID:  Right.  And lastly, I  
23           would ask you who transmitted ... you yourself  
24           noted that information.  You yourself understood  
25           that it was important information?

1 MR. ROY: Yes.

2 MR. DAVID: And I am asking you  
3 ... I am going back to my question: Who told you  
4 that?

5 MR. ROY: As I mentioned earlier,  
6 it is highly likely that it was Mr. Pilgrim who  
7 mentioned it.

8 MR. DAVID: Okay. Do you know  
9 where Mr. Pilgrim got that information or where it  
10 came from?

11 MR. ROY: No.

12 MR. DAVID: And the second  
13 paragraph continues, stating:

14 [ENGLISH]

15 "Jonathan said that during  
16 meeting, Powell said that Law  
17 Enforcement was aware of what  
18 was going on."

19 [TRANSLATION]

20 So there is a reference here to  
21 Jonathan, and I would imagine that it is Jonathan  
22 Solomon?

23 MR. ROY: Yes.

24 MR. DAVID: Does that mean that  
25 Mr. Solomon was there at the discussion?

1 MR. ROY: I doubt it.

2 MR. DAVID: Okay. Then how would  
3 you explain how Mr. Solomon comes into the  
4 picture?

5 MR. ROY: Well, it's what he  
6 heard, I don't know from whom, but what  
7 Mr. Solomon mentioned was that at a meeting, I  
8 don't know with whom, Mr. Powell had mentioned  
9 what was written here, that the law enforcement  
10 people were aware of what was going on.

11 MR. DAVID: Okay. But ... then  
12 let's go on perhaps with the second paragraph just  
13 to properly understand the idea being expressed.

14 You noted that Mr. Solomon said  
15 that in the course of a meeting with Mr. Powell:

16 [ENGLISH]

17 "Law Enforcement was aware of  
18 what was going on."

19 [TRANSLATION]

20 Now do you feel that law  
21 enforcement is a reference to the RCMP?

22 MR. ROY: Yes.

23 MR. DAVID: Right:

24 [ENGLISH]

25 "And orally ... "

1 [TRANSLATION]

2 and here, you specified that it had not been noted  
3 during ... in the notes for that meeting, but that  
4 it had been said, but that it had not been  
5 recorded that the RCMP had "asked him to be sent  
6 away"?

7 MR. ROY: That is what I read.

8 MR. DAVID: Okay. Then initially,  
9 Mr. Roy, for this entry in your notes, you  
10 initially mentioned what appears to be information  
11 that came from Mr. Pilgrim about a subject in  
12 which it would appear that the RCMP gave its  
13 approval to Mr. Arar's transfer to Syria.

14 And secondly, you noted the  
15 information that came from Mr. Solomon to the  
16 effect that Powell said that the RCMP was aware of  
17 the fact that Mr. Arar would be deported to Syria  
18 and that the RCMP had even asked that Mr. Arar be  
19 deported to Syria? Once again ...

20 MR. ROY: That is what I am  
21 reading there, absolutely.

22 MR. DAVID: ... this is very  
23 startling information?

24 MR. ROY: Yes, and I am unaware of  
25 the source.

1                   MR. DAVID: But how come, under  
2 what circumstances did you obtain these two  
3 different sources, namely Mr. Pilgrim or  
4 Mr. Solomon, on such a startling subject. What  
5 was the context in which this occurred?

6                   MR. ROY: Probably on one occasion  
7 it would have been Mr. Pilgrim who contacted me  
8 ...

9                   MR. DAVID: Yes.

10                  MR. ROY: ... I would have ... I  
11 would have informed myself about the matter with  
12 ISI and the feedback that I would have received  
13 would have been what was mentioned about Jonathan.

14                  I presume that that is how things  
15 went.

16                  MR. DAVID: Does this mean that  
17 you were asked ... that Mr. Pilgrim asked you,  
18 when he was giving you that information, if you  
19 could check it with your ISI colleagues to find  
20 out whether they have heard about anything like  
21 this, about anything similar?

22                  MR. ROY: I presume that it was  
23 something along those lines, absolutely.

24                  MR. DAVID: So headquarters was  
25 concerned about the question. Headquarters,



1 Mr. Pilgrim and his representative, asked you to  
2 take action yourself with the Department of  
3 Foreign Affairs?

4 MR. ROY: Certainly. That's how I  
5 see it.

6 MR. DAVID: And on that you  
7 consulted Mr. Solomon about this issue?

8 MR. ROY: Yes.

9 MR. DAVID: And you also learned  
10 from Mr. Solomon ... you found out that from his  
11 point of view, from the information he had, that  
12 was ... that confirmed it but went even further.  
13 Further in the sense that he, it would appear,  
14 told you that based on his information the RCMP  
15 had even asked that Arar be transferred to Syria.

16 Is that what you learned from  
17 Mr. Solomon?

18 MR. RICHARD ROY: Yes.

19 MR. DAVID: So what did you do  
20 with that? You had very important, highly  
21 significant information. Mr. Pilgrim or someone  
22 else at Headquarters asked you to investigate.  
23 You carried out your investigation, came across  
24 some information, and things were going from bad  
25 to worse. What did you do?

1 MR. RICHARD ROY: Well, of course  
2 if you describe it that way I would have apprised  
3 Mr. Pilgrim of what Mr. Solomon had told me.

4 MR. DAVID: Yes. And then what?

5 MR. RICHARD ROY: What is the RCMP  
6 doing with this or what is Foreign Affairs doing  
7 with that, I can't -- I don't know.

8 MR. DAVID: Did Mr. Solomon claim  
9 to have attended this meeting at which Mr. Powell  
10 said those things?

11 MR. RICHARD ROY: No, I don't  
12 recall him -- him saying that he had been there,  
13 no.

14 MR. DAVID: Did Mr. Solomon, when  
15 he told you -- because you noted it that he told  
16 you, that the RCMP was aware of what was going to  
17 happen to Mr. Arar, that he would be deported to  
18 Syria, and what's more, that it was the RCMP that  
19 had asked that he be deported to Syria?

20 Did you ask Mr. Solomon how he had  
21 come by this information?

22 MR. RICHARD ROY: I don't remember  
23 if I asked him. Definitely, or if he gave me an  
24 answer, I ---

25 MR. DAVID: You don't remember?

1 MR. RICHARD ROY: --- I don't  
2 know.

3 MR. DAVID: Was there a follow-up,  
4 something else after that? Did you hear more  
5 information about the RCMP's involvement in what  
6 happened to Mr. Arar?

7 MR. RICHARD ROY: No, not that I  
8 can remember, that I can see here.

9 MR. DAVID: And in the days or  
10 weeks after that, Mr. Roy, did you take interest  
11 in the matter? Did you continue looking into the  
12 matter?

13 MR. RICHARD ROY: I'd have to rely  
14 on my notes, but I don't think so. There's only  
15 -- there's another note that comes immediately  
16 after, but in the following days, I couldn't tell  
17 you.

18 MR. DAVID: And how did you react,  
19 you, to these two pieces of information from Mr.  
20 Pilgrim and Mr. Solomon?

21 MR. RICHARD ROY: Well, how I  
22 reacted. I don't know the sources of these -- I  
23 don't know the sources or the validity, but I'm  
24 not aware of one case or another or who said what  
25 to whom in which context. I couldn't tell you

1 more about that.

2 MR. DAVID: But you nevertheless  
3 understood that it was a serious matter? You  
4 understood that?

5 MR. RICHARD ROY: Yes, of course.

6 MR. DAVID: Let's move on, Mr.  
7 Roy, to November 20, and I would ask you to go to  
8 pages 9 and 10 -- 9 and 10 of your notes. Let's  
9 go back. They're handwritten versions. Perhaps  
10 it would be better if you read them, pages 9 and  
11 10 of your personal notes. It's P-206. I'm  
12 sorry.

13 MR. RICHARD ROY: Sorry. Which  
14 page? Sorry.

15 MR. DAVID: Pages 9 and 10.

16 MR. RICHARD ROY: Okay. What do  
17 you want to know?

18 MR. DAVID: Are these your notes  
19 concerning obtaining a legal opinion on the  
20 admissibility of Mr. Arar's statement from Syria?

21 MR. RICHARD ROY: No.

22 MR. DAVID: Could you read your  
23 notes for the record, Mr. Roy? Because it's very  
24 difficult to understand.

25 MR. RICHARD ROY: From where?

1 MR. DAVID: From page 9, please.

2 MR. RICHARD ROY:

3 [ENGLISH]

4 "At 12:10 pm, Jonathan got  
5 info. from counsellor in  
6 Egypt. He was brought to  
7 Court."

8 Okay, but we're not talking about  
9 Mr. Arar, here.

10 MR. DAVID: Okay. Continue.

11 MR. RICHARD ROY:

12 "He was brought to Court.  
13 Judge said he saw no reason  
14 to keep him. He was sent  
15 back to another jail."

16 MR. DAVID: Okay. That's not Mr.  
17 Arar?

18 MR. RICHARD ROY: No.

19 MR. DAVID: Okay. Continue.

20 MR. RICHARD ROY:

21 "Since he has now gone to  
22 Syria, has Cabana heard back  
23 from justice."

24 [TRANSLATION]

25 And all that deals with Mr. Arar here is "Since he

1 has now gone to Syria", and again, I'm assuming  
2 it's about Mr. Arar's case, but I'm not sure.

3 MR. DAVID: Okay. But:

4 [ENGLISH]

5 "Since he has now gone to  
6 Syria, has Cabana heard back  
7 from justice regarding  
8 admissibility of statements  
9 received by other  
10 authorities?"

11 [TRANSLATION]

12 Are we dealing here with the  
13 admissibility of Mr. Arar's statement from the  
14 Syrians?

15 MR. RICHARD ROY: It definitely  
16 deals with that, but about whom, I couldn't say, I  
17 don't know.

18 MR. DAVID: Well, that is, we know  
19 that on November 6 the RCMP obtained a copy of Mr.  
20 Arar's Syrian statement, isn't that right?

21 MR. RICHARD ROY: Yes, yes, but

22 ---

23 MR. DAVID: And your notes here  
24 are dated November 20. Apart from Mr. Arar, did  
25 you have a statement from another Canadian

1           imprisoned outside Canada?

2                           MR. RICHARD ROY: Me, no.

3                           MR. DAVID: So, is -- we can infer  
4           that it deals with the matter?

5                           MR. RICHARD ROY: It's reasonable  
6           to infer this. I'm not certain that's the case,  
7           but it's reasonable to infer this.

8                           MR. DAVID: Okay. Let's now go to  
9           Exhibit P-183. In fact, Mr. Clerk, never mind,  
10          I'll -- I'll skip it. Sorry.

11                          Mr. Roy, if you could go back, I'm  
12          still on page 10 of your notes, dealing with the  
13          statement and the admissibility of the Syrian  
14          statement.

15                          Your notes -- continue. You say:  
16          "Cabana" -- is that "aware"?

17                          MR. RICHARD ROY: Yes:

18                                   "Cabana aware, unable to  
19                                   reach Flewelling."

20                          MR. DAVID: After? "Will discuss  
21          ---"

22                          MR. RICHARD ROY:

23                                   "Will discuss it again next  
24                                   week, difficulty with J.C.,  
25                                   Justice Canada."

1 MR. DAVID: Okay.

2 MR. RICHARD ROY: Then mention is  
3 again made of admissibility.

4 MR. DAVID: The potential  
5 admissibility here in Canada of a Syrian statement  
6 made by Mr. Arar?

7 MR. RICHARD ROY: Mr. Arar or  
8 someone else, yes.

9 MR. DAVID: Is that it?

10 MR. RICHARD ROY: Yes.

11 MR. DAVID: Who asked you to  
12 contact Mr. Flewelling about this? Was it on your  
13 own initiative or did Mr. Cabana or someone else  
14 ask you to call Mr. Flewelling about this?

15 MR. RICHARD ROY: I don't  
16 remember.

17 MR. DAVID: Okay. Let's go to  
18 April 23, and I would like to refer you to Exhibit  
19 P-94, Mr. Roy. It's an e-mail from Mr.  
20 Pillarella, Ambassador Pillarella, concerning a  
21 visit from two Canadian MPs, Ms. Caterall and Mr.  
22 Assadorian, who went to Syria, yes, and who  
23 visited Mr. Arar, among other things.

24 You also refer to this in your  
25 time line?



1 MR. RICHARD ROY: That's correct.

2 MR. DAVID: And I can refer you to  
3 page 4 of your time line concerning this entry.

4 You wrote:

5 [ENGLISH]

6 "e-mail -- Damascus, approved  
7 by Pillarella regarding visit  
8 of M.P.s file sent to  
9 Reynolds."

10 [TRANSLATION]

11 Who's Reynolds?

12 MR. RICHARD ROY: Inspector Rick  
13 Reynolds, now Superintendent Rick Reynolds. He  
14 was -- I think it was called FIB at the time or --  
15 it's National Security.

16 MR. DAVID: Okay. But it's  
17 headquarters?

18 MR. RICHARD ROY: Yes, yes,  
19 absolutely.

20 MR. DAVID: So, who sent you this  
21 e-mail? That's the first question.

22 MR. RICHARD ROY: I didn't note it  
23 down. It's ISI again, same process as the others.

24 MR. DAVID: And who would have  
25 given the authorization that it be sent to Mr.

1 Reynolds?

2 MR. RICHARD ROY: Same process.

3 MR. DAVID: Okay. Were there  
4 conditions on the caveats or conditions,  
5 restrictions on this transmission?

6 MR. RICHARD ROY: No, not  
7 specifically, but since you mention caveats, I  
8 think it always goes without saying in the field,  
9 we talk about third-party caveats, that's what it  
10 is. I think people in the community are aware of  
11 it.

12 MR. DAVID: Okay. I'd like to  
13 refer you to your personal notes with regard to  
14 April 29 and 30, page 25.

15 Mr. Roy, I'll -- I forgot to refer  
16 you to a document, if you'll allow me.

17 I'd like to refer you to P-183.  
18 It's a meeting, Mr. Roy, that was held -- I'll let  
19 you read the document, but it's a meeting that was  
20 held on February 28, 2003, and that e-mail dated  
21 March 3, 2003, refers to this meeting?

22 MR. RICHARD ROY: Yes.

23 MR. DAVID: The subject is DFAIT  
24 Dec., so it's a presentation concerning consulate  
25 services related to terrorist cases.

1                   And we learn from this e-mail that  
2           Mr. Livermore chaired the meeting:

3           [ENGLISH]

4                   "Purpose of meeting was to  
5                   get more clarify from the  
6                   RCMP concerning"

7           --- something ---

8                   "to talk to Mr. Arar,  
9                   discussions with Arar will be  
10                  in the context of him as a  
11                  witness. In the case of  
12                  Arar, Marilyn Caterall will  
13                  also be visiting from  
14                  humanitarian perspective. It  
15                  was agreed that the RCMP  
16                  would later visit until two  
17                  weeks after the Caterall  
18                  visit meeting on the above  
19                  was productive."

20           [TRANSLATION]

21                   Did you attend this meeting?

22                   MR. RICHARD ROY: Yes.

23                   MR. DAVID: Could you tell us a  
24                  bit about the topic, the purpose? The RCMP had  
25                  plans to go meet, to interrogate Mr. Arar at the

1 time in Syria?

2 MR. RICHARD ROY: Yes, I believe  
3 so.

4 MR. DAVID: Could you tell us  
5 about the context?

6 MR. RICHARD ROY: Well, the  
7 context, I know it was mentioned that we should  
8 speak with one voice. It was something that was  
9 mentioned around the table, and also, the RCMP's  
10 request, indeed, according to the meeting, the  
11 RCMP intended to go to Syria, at least it was  
12 considered, and had agreed that it not take place  
13 for a certain period of time, before the MPs paid  
14 their visit. That's all.

15 MR. DAVID: Okay.

16 MR. RICHARD ROY: It corroborates  
17 this.

18 MR. DAVID: Okay. Now I take you  
19 to October 29 and 30, and if we could refer to  
20 page 25 of your notes and a new document I'd like  
21 to enter now.

22 THE REGISTRAR: 218.

23 EXHIBIT NO. P-218: Personal  
24 notes of another  
25 investigator.

1 MR. DAVID: 218. So, Exhibit  
2 P-218, these are personal notes of another member  
3 of the investigation team, an investigator on the  
4 Project A-O-C team, Mr. Roy. Okay?

5 MR. RICHARD ROY: Which date did  
6 you say, please?

7 MR. DAVID: Go to page 4 of 5.

8 MR. RICHARD ROY: Okay.

9 MR. DAVID: There's an entry on  
10 page 4 and on page 5 for April 29 and 30, 2003.  
11 At the bottom of page 4, Exhibit P-218, we read:  
12 [ENGLISH]

13 "Discussed Mr. Arar's  
14 contacts with DFAIT. Asked  
15 that, call inspector Roy at  
16 DFAIT to get reports.  
17 Consular visits as stated in  
18 today's Ottawa Citizen  
19 article and then called and  
20 left a message for inspector  
21 Roy."

22 And there's entry after that for  
23 4:22 p.m.:

24 "Received a call from Roy at  
25 DFAIT who was told about the

1 Ottawa Citizen article about  
2 Arar and consular visits with  
3 him in Syria. Inspector Roy  
4 was not aware that the visits  
5 had occurred, but would find  
6 out, he had known that two  
7 members of Parliament were  
8 going to see Arar in the  
9 H.Q.C. and were all aware of  
10 this."

11 And then, for October 30, at the  
12 bottom of page 5, it's written:

13 "--- provided A-OCANADA with  
14 a Q&A copy from DFAIT about  
15 Arar."

16 And your personal notes, Mr. Roy,  
17 for the 29th say this:

18 "Approximately 1630 received  
19 message ---"  
20 --- from someone ---  
21 "--- who asked me for some  
22 information regarding Arar as  
23 they relate to him on the  
24 newspapers."

25 I think it's the same reference.

1 MR. RICHARD ROY: Yes.

2 MR. DAVID:

3 "He did not know that  
4 consullor had seen him at  
5 many occasions and two  
6 Members of Parliament had  
7 seen him in Syria.  
8 Approximately 1645 contacted  
9 Myra Pastyr-Lupul who advised  
10 me of the situation. There  
11 is a political movement to  
12 ensure the liberation of Arar  
13 prior to his being accused in  
14 Syria. The Members of  
15 Parliament even want to go as  
16 far as Monsieur Chrétien by  
17 going by Manley, Graham and  
18 Easter."

19 And then you say:

20 "Rick Reynolds advised copy  
21 of question Q&A sent to him.  
22 He will update ---"  
23 --- something.

24 [TRANSLATION]

25 The question seems -- you seem to

1           be asked -- the A-OCANADA project seems to be  
2           seeking information. It certainly seems to be  
3           looking for other consular reports about consular  
4           visits with Mr. Arar in Syria.

5                       Was that the case? Were you asked  
6           to provide other consular reports?

7                       MR. RICHARD ROY: I don't remember  
8           a specific request for consular reports. The  
9           request more or less concerned the visit of the  
10          two members of Parliament which had taken place,  
11          and it seemed that the individual in question was  
12          not aware of the status of the visit, et cetera.  
13          So, I contacted Mr. Reynolds, who took care of  
14          apprising that person.

15                      MR. DAVID: Of apprising the  
16          investigator of A-O-C ---

17                      MR. RICHARD ROY: Of apprising the  
18          investigator of what was going on.

19                      MR. DAVID: Okay. Did you receive  
20          a report concerning the MPs' visit from your ISI  
21          colleagues?

22                      MR. RICHARD ROY: I think so.

23                      MR. DAVID: Did you forward that  
24          document to the A-OCANADA team?

25                      MR. RICHARD ROY: I would have.



1                   MR. DAVID:   And then, we also see  
2                   that you obtained, Mr. Roy, the Q&As, the  
3                   questions and answers?

4                   MR. RICHARD ROY:   I can answer  
5                   you.

6                   MR. DAVID:   Yes.

7                   MR. RICHARD ROY:   It's written --  
8                   maybe we've already covered this -- it's April 23,  
9                   "Regarding visit of MPs sent to Reynolds."   That's  
10                  what you're talking about, I think.

11                  MR. DAVID:   Yes.   That's in your  
12                  time line, right?

13                  MR. RICHARD ROY:   Yes.

14                  MR. DAVID:   Okay.

15                  Now we'll go to your notes for May  
16                  8, page 26.   It's a meeting held to discuss a memo  
17                  Mr. Pardy had drafted suggesting that the  
18                  Solicitor General and the Minister of Foreign  
19                  Affairs take a common approach with respect to  
20                  their counterpart in Syria, the Syrian Minister of  
21                  Foreign Affairs.

22                  MR. RICHARD ROY:   Yes.

23                  MR. DAVID:   And you attended a  
24                  meeting to discuss this approach?

25                  MR. RICHARD ROY:   Correct.

1                   MR. DAVID: You noted this meeting  
2                   on May 8.

3                   And discussions continued on May  
4                   12 regarding this same matter, and you were also  
5                   at this second meeting?

6                   MR. RICHARD ROY: Yes.

7                   MR. DAVID: Okay. And after these  
8                   two meetings, where did things stand?

9                   MR. RICHARD ROY: We were at the  
10                  point of agreeing on the contents of the letter,  
11                  among other things.

12                  MR. DAVID: Had it been agreed  
13                  that both the Minister of Foreign Affairs and the  
14                  Solicitor General would sign the letter or was it  
15                  agreed at the end of the second meeting that the  
16                  Solicitor General would not sign any letters?

17                  MR. RICHARD ROY: There wasn't any  
18                  question of signing any letters, but if you  
19                  continue in the time line, we come to the final  
20                  wording on which everyone agreed. It continues, I  
21                  believe.

22                  MR. DAVID: But on May 12, Mr. Roy  
23                  ---

24                  MR. RICHARD ROY: No, it hadn't  
25                  been done.

1 MR. DAVID: --- what was ---

2 MR. RICHARD ROY: It hadn't been  
3 finalized by May 12.

4 MR. DAVID: There still was no  
5 agreement?

6 MR. RICHARD ROY: No.

7 MR. DAVID: Okay. The issue  
8 hadn't been resolved?

9 MR. RICHARD ROY: No.

10 MR. DAVID: Okay.

11 You have an entry on page 27 of  
12 your notes for May 23:

13 [ENGLISH]

14 "Reynolds, Arar and possible  
15 visit by DFAIT. They will  
16 advise 'A' and see if there  
17 is a concern and a list of  
18 questions could be obtained  
19 to pass on to DFAIT."

20 [TRANSLATION]

21 Can you tell me what this is  
22 about?

23 MR. RICHARD ROY: It's that I had  
24 simply been asked, what's written here, to ask  
25 whether there was -- I didn't know, and I still

1 don't know the context. Whom are we talking about  
2 exactly, but the question was, do you have  
3 questions ---

4 MR. DAVID: But it's Mr. Reynolds  
5 of ---

6 MR. RICHARD ROY: --- for Arar.

7 MR. DAVID: Mr. Reynolds of  
8 Headquarters asked you ---

9 MR. RICHARD ROY: No, no. Someone  
10 at ISI had asked me. So I asked Mr. Reynolds for  
11 it, Mr. Reynolds was taking care of it, and it was  
12 never followed up with me.

13 MR. DAVID: There was no follow-  
14 up, to your knowledge?

15 MR. RICHARD ROY: No.

16 MR. DAVID: Okay. Now I'll take  
17 you to Exhibit -- no, I'm sorry, a new exhibit  
18 we'll enter, dated June 17.

19 THE REGISTRAR: 219.

20 EXHIBIT NO. P-219: An e-mail  
21 dated June 17, 2003.

22 MR. DAVID: Thank you. You know,  
23 Mr. -- in any case, maybe you don't know, but the  
24 final version of Mr. Parady's memo is dated June 5,  
25 2003.

1                   Mr. Roy, according to this memo,  
2                   only the Minister of Foreign Affairs would sign  
3                   the letter to his colleague. The letter would  
4                   contain -- the language is -- and on June 7, this  
5                   e-mail, which is from the Office of the Minister  
6                   of Foreign Affairs, asks whether the RCMP, Office  
7                   of the Solicitor General and CSIS should be  
8                   consulted as to whether they could agree on  
9                   stronger language that would be used in the letter  
10                  to the Syrian Minister.

11                  And here we see the response,  
12                  which seems to propose such a letter. Did you  
13                  read this letter, because "notified Richard Roy of  
14                  above" is written at the bottom of the page?

15                  MR. RICHARD ROY: Yes.

16                  MR. DAVID: And what is written  
17                  above is:

18                  [ENGLISH]

19                  "Mr. Arar is currently  
20                  subject of a National  
21                  Security investigation in  
22                  Canada although there is not  
23                  enough evidence at this time  
24                  to warrant criminal code  
25                  charges."

1 [TRANSLATION]

2 Were you made aware of this?

3 MR. RICHARD ROY: Yes, yes, it's  
4 in my time line, dated the 17th.

5 MR. DAVID: Who informed you of  
6 the wording, the contents?

7 MR. RICHARD ROY: ISI again.

8 MR. DAVID: Someone at ISI; can  
9 you be more specific?

10 MR. RICHARD ROY: Absolutely. I  
11 sent the document, without the handwritten part  
12 here, I don't think it was there, but I sent the  
13 document to CID, which sent me back another --  
14 another way, shall we say, of wording the letter.

15 MR. DAVID: Okay.

16 MR. RICHARD ROY: And the  
17 description here of Mr. Arar, in the handwritten  
18 part, I imagine this was a contribution from  
19 someone at ISI:

20 [ENGLISH]

21 "Mr. Arar is currently  
22 subject of a National  
23 Security Investigation."

24 [TRANSLATION]

25 Did ---

1                   MR. RICHARD ROY: I don't know, I  
2                   have no idea. It might have been Mr. Guimond. I  
3                   don't know whom it came from.

4                   MR. DAVID: You don't know who  
5                   wrote this handwritten part?

6                   MR. RICHARD ROY: No, it's not my  
7                   handwriting.

8                   MR. DAVID: But, it's because it  
9                   says:

10                                 "Notified Richard Roy of  
11                                 above."

12                                 That's why I'm asking you the  
13                                 question.

14                   MR. RICHARD ROY: Yes. Above  
15                   doesn't necessarily include what was written in by  
16                   hand.

17                   MR. DAVID: Okay.

18                   MR. RICHARD ROY: You see?

19                   MR. DAVID: And when you read this  
20                   document, this version, Mr. Roy, had you already  
21                   noted Mr. Arar's description as being the subject  
22                   of a national security investigation?

23                                 Was that the first time you had  
24                   seen Mr. Arar described in this manner or was it  
25                   something you had already come across?

1 MR. RICHARD ROY: At that time, I  
2 think so. I'm not sure where or how, but I think  
3 so.

4 MR. DAVID: You think so.

5 MR. RICHARD ROY: Yes.

6 MR. DAVID: Okay. Finally, Mr.  
7 Roy, simply for the record, for the purposes of  
8 the record, I take you to Exhibit P-95, please.

9 It's a consular report, Mr. Roy,  
10 dated -- a consular visit, I mean, dated August  
11 14, 2003.

12 You have -- okay?

13 MR. RICHARD ROY: Okay.

14 MR. DAVID: It's a consular report  
15 on a consular visit that you sent to NSIV, at  
16 headquarters.

17 MR. RICHARD ROY: Okay.

18 MR. DAVID: Okay. Who gave you  
19 this document? Someone at ISI?

20 MR. RICHARD ROY: Same thing,  
21 someone at ISI.

22 MR. DAVID: And again, who  
23 authorized you to send this document to the RCMP?

24 MR. RICHARD ROY: Same answer.

25 MR. DAVID: Okay. Those are my



1 questions, Mr. Commissioner. Thank you very much.

2 [ENGLISH]

3 THE COMMISSIONER: Thank you,  
4 Mr. David.

5 Mr. Waldman, do you know how long  
6 you will be?

7 MR. WALDMAN: About an hour, I  
8 think.

9 THE COMMISSIONER: O.k. And who  
10 else? Anybody else is going to cross-examine?

11 You will certainly go after Mr.  
12 Waldman anyway. Anybody else? O.k., and then,  
13 Mr. Boxall, you are going to be along. O.k. We  
14 will take a five minute break.

15 --- Upon recessing at 2:31 p.m. /

16 Suspension à 14 h 31

17 --- Upon resuming at 2:42 p.m. /

18 Reprise à 14 h 42

19 THE REGISTRAR: Please be seated.  
20 Veuillez vous asseoir.

21 EXAMINATION

22 MR. WALDMAN: I would like to ask  
23 you first about the question of the way the  
24 information was shared. I want to have some  
25 clarity.

1                   I just want to be clear. At no  
2 point during all the time you worked as a liaison  
3 officer at DFAIT did you ever discuss the whole  
4 question with Mr. Solomon as to the process  
5 involved inside DFAIT about how they authorized  
6 sharing of information with the RCMP?

7                   MR. ROY: May I ask you to repeat,  
8 please? I tried this and it didn't work with my  
9 ear. I'm okay in English anyways.

10                  MR. WALDMAN: You are okay in  
11 English?

12                  [TRANSLATION]

13                  MR. RICHARD ROY: Please, I will  
14 speak in French, but I should be able to  
15 understand you.

16                  [ENGLISH]

17                  Please, can you repeat.

18                  MR. WALDMAN: That's fine.

19                  You are going to have to excuse me  
20 because I'm going to be hearing you so ...

21                  I will ask the question again. I  
22 just want to clarify: During all the time you  
23 were working as liaison officer, at no point did  
24 you ever discuss with ISI the process in DFAIT  
25 about giving information to you, the

1 authorizations involved?

2 MR. ROY: No.

3 MR. WALDMAN: So you have no  
4 knowledge of what internal process would have had  
5 to have been undertaken within DFAIT before they  
6 shared information with you?

7 MR. ROY: No.

8 MR. WALDMAN: And you had no  
9 discussions at any time with DFAIT about any  
10 limitations on the use of information provided to  
11 you by DFAIT?

12 MR. ROY: No.

13 MR. WALDMAN: So DFAIT gave the  
14 information to you, and at no point did they say,  
15 "This is subject to any caveats of any kind"?

16 [TRANSLATION]

17 MR. RICHARD ROY: Like I said  
18 earlier, third-party caveat in the intelligence  
19 field is a restriction, a caveat, which is known,  
20 and if the RCMP had wanted to do something else  
21 with it, I assume that was the case -- a situation  
22 that comes to mind -- that I had been contacted to  
23 find out if it was okay, if the intelligence could  
24 be used for another reason.

25 So, was there a stamp, a third-

1 party caveat, on the documents I was given? No.

2 [ENGLISH]

3 MR. WALDMAN: Okay. And DFAIT  
4 never said to you that there was a third party  
5 caveat?

6 [TRANSLATION]

7 MR. RICHARD ROY: No, I don't  
8 recall being told that, no.

9 [ENGLISH]

10 MR. WALDMAN: So as far as your  
11 instructions from DFAIT about the use of the  
12 information, they gave it to you and didn't say to  
13 you, "You cannot share it with anyone else other  
14 than the RCMP"?

15 [TRANSLATION]

16 MR. ROY: That's correct.

17 [ENGLISH]

18 They didn't tell me that but I  
19 don't believe they had to.

20 [TRANSLATION]

21 The document I was given was for  
22 the RCMP, and I gave it to the RCMP.

23 [ENGLISH]

24 MR. WALDMAN: The document was for  
25 the RCMP?

1 MR. ROY: That's correct.

2 MR. WALDMAN: So, in other words,  
3 DFAIT gave it to you, and your understanding was  
4 it was for the RCMP.

5 MR. ROY: That is correct.

6 MR. WALDMAN: But did you, at any  
7 point, communicate to any of your superiors that  
8 you understood there was a third party caveat?

9 MR. ROY: No. As I said, third  
10 party caveat, from my understanding, is something  
11 that is well-known in the environment.

12 MR. WALDMAN: Okay. But at no  
13 point did you say to anyone else who you shared  
14 the documents with that "this is only for RCMP  
15 eyes only"?

16 MR. ROY: No.

17 MR. WALDMAN: Would your  
18 understanding be that the document could have been  
19 shared with CSIS without DFAIT consent? If you  
20 gave the document to Inspector Cabana, couldn't  
21 Inspector Cabana share it with the CSIS liaison in  
22 A-OCANADA without DFAIT consent?

23 MR. ROY: The question is whether  
24 I am aware whether that was taking place?

25 MR. WALDMAN: Or were you aware of

1 any requirements?

2 MR. ROY: Because I'm not -- no,  
3 I'm not.

4 MR. WALDMAN: Okay. So just to be  
5 perfectly clear. The documents were given to you  
6 without any instructions other than whatever you  
7 understood the caveats might be?

8 MR. ROY: Correct.

9 MR. WALDMAN: And once a document  
10 was shared by you with whoever else in the RCMP,  
11 you have no knowledge as to whether they  
12 understood that there were any caveats as well?

13 MR. ROY: If I had the  
14 understanding of a third party caveat, I think  
15 that there is the same understanding as I.

16 MR. WALDMAN: But there was never  
17 any explicit conversation between you and  
18 Inspector Cabana, or anyone else, about caveats?  
19 It's just your understanding and your assumption  
20 that they would have operated under the same  
21 assumption?

22 MR. ROY: That's correct.

23 MR. WALDMAN: Are you aware of the  
24 Privacy Act?

25 MR. ROY: I'm what?

1                   MR. WALDMAN: Are you aware  
2 whether under the Privacy Act there was a  
3 requirement -- I'm sorry, I'm getting  
4 interference --

5                   MR. ROY: If I go English, you  
6 won't need that anyway.

7                   MR. WALDMAN: It will make our  
8 lives all much happier. If at any point you need  
9 me to repeat anything, it would just make  
10 everything a lot easier for us.

11                   Are you aware that before DFAIT  
12 can share information given by Mr. Arar, that  
13 generally speaking there is a requirement for his  
14 consent under the Privacy Act?

15                   MR. ROY: I'm not aware.

16                   MR. WALDMAN: Now, I am just  
17 picking up a few quick areas.

18                   I would like to move on to another  
19 area. You mentioned a communication problem  
20 between A-OCANADA and CID, that you were advised  
21 that there was a problem.

22                   MR. ROY: I perceived so, yes.

23                   MR. WALDMAN: You perceived so?

24                   MR. ROY: I perceived so based on  
25 the two statements that I referred to, yes.

1                   MR. WALDMAN: Can you tell us,  
2 were you given a briefing by somebody at CID about  
3 there being some -- maybe not anything as formal,  
4 some conversation, at CID from someone who said,  
5 "Look, we have this problem of a communication  
6 between us and A-OCANADA"?

7                   MR. ROY: No, nothing such as  
8 briefing, nothing so formal. And, bottom line, my  
9 perception of it from observing is that everybody  
10 were extremely busy and reports were going up  
11 and --

12                  MR. WALDMAN: But someone must  
13 have said something to you, I assume, because you  
14 were pretty new on the game. You came on, and  
15 fairly early on you were talking about  
16 this communication problem. Is it fair to say  
17 that someone mentioned it to you at some point  
18 that there was such a problem?

19                  MR. ROY: I mentioned that earlier  
20 as to what the statements were --

21                  MR. WALDMAN: Right.

22                  MR. ROY: -- that I heard, but  
23 that's the extent of it.

24                  MR. WALDMAN: Were you given  
25 instructions, for example, by someone at CID to



1           make sure that whatever information you sent down  
2           to Cabana was -- or got from Cabana was provided  
3           to CID as well, or did you just do that of your  
4           own initiative? It seems most of the time you  
5           were communicating with CID and A-OCANADA.

6                       MR. ROY: At the beginning, you  
7           are right, I was communicating with both, being  
8           new, exactly it, and trying to at the beginning  
9           have a better sense of what A-OCANADA was about.  
10          But shortly thereafter, I was advised that it  
11          would be wise to separate -- take a distance from  
12          the actual investigation, and that is what I did.

13                      MR. WALDMAN: So later on you are  
14          just advising CID, and not -- and you didn't have  
15          much communication direct with A-OCANADA; is that  
16          correct?

17                      MR. ROY: Yes, that's correct.

18                      MR. WALDMAN: Okay. And I want to  
19          go to the September 10th meeting. Perhaps P-166?  
20          It's that loose page.

21                      MR. ROY: 166?

22                      MR. WALDMAN: P-166, Inspector  
23          Cabana's notes. And there is a loose page 44.

24                      Mr. Clerk, I don't know if you  
25          have that. Is that attached? Remember we added a

1 page 44 afterwards?

2 I would ask you to go to page 44.

3 Mr. Commissioner, when Mr. Cabana  
4 was being examined, we were handed up a loose  
5 page, which is the second part of page 44. I  
6 don't know ...

7 Yes, it was handed in. Oh, it  
8 wasn't entered as a separate exhibit. We were  
9 told just to attach it to the back. It is the  
10 rest of page 44.

11 I don't know if you have that  
12 loose page.

13 THE COMMISSIONER: No, I just have  
14 the one page 44.

15 MR. WALDMAN: Perhaps --

16 MR. ROY: I just have the one  
17 page.

18 MR. WALDMAN: It's not very much.  
19 Perhaps I could just read it. It's only about one  
20 page.

21 THE COMMISSIONER: Okay, why don't  
22 you see if you could do it that way and we'll see  
23 how it works out.

24 MR. WALDMAN: This is in relation  
25 to that meeting on September 10th, and it says

1           that the meeting was with Mr. Pillarella, the  
2           Canadian Ambassador, Scott Heatherington, Don  
3           Saunders, RCMP DFAIT liaison officer. That would  
4           be yourself? And Jonathan Solomon. Inspector  
5           McDougall of CID joined in late.

6                        Mr. Pillarella agreed -- I'm  
7           having a hard time reading this myself.

8                                "Mr. Pillarella agreed to  
9                                facilitate any requests to  
10                              Syrian authorities.

11                             Mr. Pillarella suggested that  
12                             the Syrian authorities would  
13                             likely be expecting to share  
14                             with them. We explained --"

15                            So this is about the meeting that  
16           you had with A-OCANADA on the 10th. Do you recall  
17           whether Ambassador Pillarella was at that meeting?

18                            MR. ROY: On the 10th at DFAIT, I  
19           believe so, yes.

20                            MR. WALDMAN: Yes. This was the  
21           first time you learned about the A-OCANADA --

22                            MR. ROY: It would have been  
23           really close to that.

24                            MR. WALDMAN: Yeah, right. And I  
25           think you told us that at that time Mr. Arar's

1 name didn't come up.

2 MR. ROY: That's correct.

3 MR. WALDMAN: So I gather that  
4 they would have talked to you about -- we now  
5 know Mr. Almalki was, according to Inspector  
6 Cabana, the main target. So you were made aware  
7 of that at that time?

8 MR. ROY: I don't believe I'm at  
9 liberty to --

10 MR. FOTHERGILL: I think it's  
11 acknowledged that Mr. Almalki was one of the  
12 principal areas of the investigation, so he can  
13 answer when he was made aware of that at that  
14 meeting, yes.

15 MR. WALDMAN: Was Mr. Almalki's  
16 name mentioned at that --

17 MR. ROY: Yes.

18 MR. WALDMAN: But Mr. Arar's name  
19 wasn't mentioned?

20 MR. ROY: That's correct.

21 MR. WALDMAN: How long did this  
22 briefing go on for; do you have any idea?

23 MR. ROY: About an hour and  
24 fifteen.

25 MR. WALDMAN: So it was a fairly

1 extensive briefing. It was all about the  
2 A-OCANADA investigation? That was what it was  
3 about.

4 MR. ROY: That's how I understood  
5 it, yes.

6 MR. WALDMAN: And Mr. Arar's name  
7 didn't come up even once?

8 MR. ROY: No.

9 MR. WALDMAN: So, according to the  
10 Garvie report, everyone who was questioned said  
11 that Mr. Arar was peripheral to the investigation.  
12 So it's fair to say, given that his name wasn't  
13 even mentioned once during your first briefing,  
14 your understanding was as well that Mr. Arar was  
15 extremely peripheral to the A-OCANADA  
16 investigation.

17 Is that correct?

18 MR. ROY: That is what I have  
19 read, as you have, but ...

20 MR. WALDMAN: Right. And that was  
21 based upon the fact that he wasn't mentioned.

22 MR. ROY: He wasn't.

23 MR. WALDMAN: But Mr. Pillarella  
24 did say at that meeting, as far as you are aware,  
25 that the Syrians would be willing to facilitate

1 RCMP access to another Canadian who was detained,  
2 who we know was Mr. Almalki? He was the only  
3 Canadian detained at that time.

4 That's what it says here. Do you  
5 recall that --

6 MR. ROY: If that's what it says.  
7 I don't recall much of that meeting, no.

8 MR. WALDMAN: Okay. And we know  
9 from other information that...

10 If we go to page 1 of your  
11 personal notes...

12 --- Pause

13 MR. WALDMAN: So you were made  
14 aware of the fact that Mr. Almalki -- Mr. El Maati  
15 had been seen by the Canadian Embassy in Cairo; is  
16 that correct?

17 MR. ROY: It is mentioned here  
18 that they saw him twice.

19 MR. WALDMAN: Right.

20 MR. ROY: I don't know where, but  
21 they saw him twice.

22 MR. WALDMAN: Okay. And we  
23 haven't seen the consular CAMANT note of August of  
24 2002, detailing the information that the consular  
25 officials got when they met with Mr. El Maati.

1                   MR. ROY: I was not near Ottawa,  
2 and I didn't see it, no.

3                   MR. WALDMAN: I know, but we were  
4 told by other witnesses that the RCMP obtained a  
5 copy of this August 2002 note where Mr. El Maati  
6 said that he had been tortured in Syria. Were you  
7 made aware of this fact by Inspector Cabana or  
8 anyone else at this September 10th meeting, that  
9 Mr. Almalki, in his August 2002 interview, had  
10 said that -- Mr. El Maati, in his August 2002  
11 interview, had said that he had been tortured in  
12 Syria?

13                   MR. ROY: No, I don't believe so.

14                   MR. WALDMAN: Were you not made  
15 aware at any time by anyone of the existence of  
16 this CAMANT note which said that Mr. El Maati told  
17 DFAIT officials that he had been tortured in  
18 Syria?

19                   MR. ROY: No.

20                   MR. WALDMAN: So is this the first  
21 you are hearing this now?

22                   MR. ROY: I read that in the  
23 papers, I believe.

24                   MR. WALDMAN: You read it in the  
25 papers.

1 MR. ROY: Yeah, or in reference  
2 to, or in some other testimonies. But me hearing  
3 from anybody at the time about torture -- his  
4 torture or whatnot, no. Not specific to him.

5 MR. WALDMAN: Now, you were aware  
6 that Mr. -- so you weren't aware at all of this  
7 allegation of Mr. El Maati. No one in A-OCANADA  
8 or at DFAIT thought it important that you be made  
9 aware of this fact?

10 MR. ROY: I don't recall that. I  
11 don't --

12 MR. WALDMAN: You don't recall --

13 MR. ROY: I don't recall that, no.

14 MR. WALDMAN: You don't ever  
15 recall being told by anyone, either at ISI or at  
16 A-OCANADA, both of whom knew about this, that  
17 Mr. El Maati had told DFAIT officials that he had  
18 been severely tortured by the Syrians?

19 MR. ROY: It might have been  
20 discussed when I was there, but not knowing  
21 anything about the case, that went by me. I  
22 didn't --

23 MR. WALDMAN: So, if someone  
24 mentioned to you that a Canadian citizen was being  
25 detained in Syria, was being tortured, it wouldn't



1 be something that would remain in your memory,  
2 sir?

3 MR. ROY: Well, it most likely  
4 would, yes. But I do not remember such a thing.

5 MR. WALDMAN: So it's not likely  
6 that you were told?

7 MR. ROY: Not likely, no.

8 MR. WALDMAN: And you don't think  
9 it would have been important that you be advised  
10 of this serious allegation of torture made by a  
11 Canadian citizen by Syria, one of the countries  
12 you were dealing with as part of the A-OCANADA  
13 investigation?

14 MR. ROY: In my role as a liaison  
15 officer, not necessarily.

16 MR. WALDMAN: Not necessarily.  
17 Your role as a liaison officer was to facilitate  
18 discussions with respect to the possibility of  
19 arranging RCMP visits to Syria, to interrogate  
20 Canadian citizens there, and you don't think that  
21 it would be important for you to know that Syrians  
22 had been said to have tortured a Canadian in order  
23 to extract information? You don't think it was  
24 relevant, sir?

25 MR. ROY: Those discussions that

1           you are referring to did take place, they were  
2           taking place. And, yes, my task was to make sure  
3           that my person was at the table representing the  
4           RCMP. Those discussions took place, if that's  
5           what you are referring to.

6                       MR. WALDMAN: Yes, but I'm asking  
7           whether it would have been important for you to  
8           have been aware that Syria was a country that  
9           engaged in torture of detainees in order to  
10          extract information.

11                      Don't you think that was  
12          important, that a Canadian citizen had said,  
13          "While interrogated in Syria, I was tortured by  
14          the Syrians"? In the context of your role as  
15          possibly facilitating RCMP investigators going to  
16          Syria, you don't think that was important?

17                      MR. ROY: Yes. In those terms, it  
18          would have, probably, yeah. And have I -- anyway,  
19          I do not recall any specific discussions in  
20          regards to same, to it. That does not mean that  
21          nobody has mentioned it, or I read about it or  
22          whatever. I cannot recall specifically being told  
23          about a specific individual being tortured.  
24          Definitely not.

25                      MR. WALDMAN: And you just told me

1 a minute ago that the fact that -- if someone had  
2 told you that a Canadian citizen had been tortured  
3 in Syria, you probably would have remembered it.  
4 So it's not likely that you were told that.

5 MR. ROY: Well, I can't recall.

6 MR. WALDMAN: Okay. So you can't  
7 recall.

8 Now, are you aware, or were you  
9 made aware, or did you make yourself aware of the  
10 human rights record in Syria when you started  
11 getting involved in these cases involving  
12 Canadians detained in Syria?

13 MR. ROY: No, I did not.

14 MR. WALDMAN: So were you aware,  
15 sir, of the Department of State reports about the  
16 very poor human record in Syria? Did you have a  
17 general understanding that there was problems in  
18 Syria, or --

19 MR. ROY: A general understanding,  
20 I would say that.

21 MR. WALDMAN: What would have been  
22 your general understanding? If I had asked you in  
23 September of 2002 about the human rights record in  
24 Syria, what could you have told me?

25 MR. ROY: That's only based on

1           what I read, like anyone else, any other citizen  
2           would read, insofar as the level -- lack of  
3           democracy and basic human rights. No more than  
4           that.

5                           MR. WALDMAN: So you knew there  
6           was a lack of democracy in Syria.

7                           And what would you have -- you  
8           know, what was in your mind about the way  
9           prisoners were treated? Did you have any sense at  
10          all that there was any problems in the treatment  
11          of prisoners in Syria?

12                          MR. ROY: I was not aware of the  
13          exact conditions of prisoners in Syria, no.

14                          MR. WALDMAN: Did you have any  
15          sense at all of the likely treatment that might be  
16          afforded to a person who was the subject of a  
17          criminal investigation in Syria? Any sense that  
18          there might be a possibility of mistreatment  
19          during detention, during interrogation?

20                          MR. ROY: I'm not aware.

21                          MR. WALDMAN: So it's fair to say  
22          you didn't have any knowledge other than this very  
23          general, vague knowledge, that there might be  
24          human rights -- that Syria wasn't a democracy,  
25          when you were asked to facilitate the possibility

1 of the RCMP going to Syria to investigate and  
2 question Mr. El Maati?

3 MR. ROY: I was not facilitating  
4 the possibilities. I was facilitating having the  
5 right person at those -- at whatever discussions,  
6 whatever meetings were to take place.

7 MR. WALDMAN: Right. And it never  
8 struck you that that might be something that you  
9 might be concerned about, sending an RCMP  
10 investigator to Syria given its poor human rights  
11 record; that you might want to raise that with  
12 your superiors or anyone else at the table?

13 MR. ROY: I don't believe that was  
14 mine to do.

15 MR. WALDMAN: It wasn't your -- I  
16 didn't --

17 MR. ROY: It wasn't mine to do.

18 MR. WALDMAN: Not your --

19 MR. ROY: The discussion, in  
20 subjects such as this, there would be discussions.  
21 That's why there was meetings with different folks  
22 around the tables. That's how I understand it.  
23 It's not ...

24 MR. WALDMAN: But as an RCMP  
25 officer who believes in the rule of law, you

1           didn't believe it was a matter that you should be  
2           concerned about, that the RCMP might be sending  
3           investigators to a country where torture is used?

4                   MR. ROY:  There's a lot of -- it's  
5           difficult for me to answer that because I have --  
6           I get bits and pieces of actual déroulement of the  
7           investigation and the status of who is talking to  
8           whom, what's going on, what's considered, what's  
9           the exact situation.  I don't know all of those  
10          elements that are in place in my position as I was  
11          in.  It's hard for me to elaborate on that.

12                   MR. WALDMAN:  Okay.  I want to  
13          clarify one other matter.

14                   You have told us that your role as  
15          liaison officer was to facilitate contact between  
16          DFAIT and the RCMP; is that correct?

17                   MR. ROY:  Yes.

18                   MR. WALDMAN:  But are you aware  
19          whether Inspector Cabana had a direct relationship  
20          with ISI as well?

21                   MR. ROY:  There was a span of four  
22          or five months prior to me starting to work there,  
23          where there was no LO, and so I'm not surprised  
24          that there would have been some contacts made in  
25          different areas.

1 MR. WALDMAN: Are you saying --  
2 because Inspector Cabana in his evidence testified  
3 that he had numerous direct discussions with  
4 Mr. Gould. This is found at pages 7866 and 8088  
5 of the transcript -- 8008. I won't take you to it  
6 unless we have to.

7 Were you made aware of these  
8 discussions that Inspector Cabana had with  
9 Mr. Gould?

10 MR. ROY: From reading  
11 transcripts.

12 MR. WALDMAN: But before that,  
13 while you were at RCMP in the DFAIT liaison  
14 office, were you aware that these conversations  
15 were going on?

16 MR. ROY: No, and I presume that  
17 if such a thing did happen, it would have been  
18 most likely because I wouldn't have been present  
19 because I think normally they would have went  
20 through me. It's possible, nonetheless. I have  
21 no problem with it.

22 MR. WALDMAN: You have no problem  
23 with --

24 MR. ROY: The fact that they don't  
25 necessarily go through me to talk to -- "A" talk

1 to "B". No, I don't have a problem with that. I  
2 don't have the monopoly over at DFAIT.

3 MR. WALDMAN: Wasn't it your  
4 function, sir, to facilitate and coordinate the  
5 communications? And if there was more than one  
6 person doing the same thing, wouldn't it be  
7 problematic because there wouldn't be any  
8 systematic control over what information was being  
9 shared by who?

10 MR. ROY: I wasn't there to  
11 control. I was there to facilitate, and there was  
12 a need to facilitate. I have no problem with  
13 Mr. Cabana, if that's the case, dealing directly  
14 with whoever in ISI that -- I have no problem with  
15 that.

16 MR. WALDMAN: You have no problem  
17 with that. But is that what was understood by the  
18 superiors in headquarters, that you would be  
19 interfacing with the RCMP and Inspector Cabana  
20 would be doing that as well? I mean, my  
21 understanding was that you were interfacing with  
22 the headquarters and the headquarters would then  
23 have control over the information.

24 If Inspector Cabana was conversing  
25 directly with ISI, then headquarters wouldn't be



1 drawn into the loop, necessarily. Is that not  
2 fair to say?

3 Wasn't the whole point of having  
4 you there so that there was one coordinated person  
5 who was facilitating communication between the two  
6 institutions, DFAIT and the RCMP, and wasn't it  
7 counterproductive to have Inspector Cabana going  
8 direct?

9 MR. ROY: I had no coordinating  
10 role in that sense. I had no coordinating role  
11 insofar as those. But like I said, as far as I'm  
12 aware, if I wasn't present, or prior to me taking  
13 post, I could see where there would have been some  
14 direct conversation. That's all I know.

15 MR. WALDMAN: But you don't know  
16 if the communication continued after you came; is  
17 that correct? It might have continued.

18 MR. ROY: It might have.

19 MR. WALDMAN: Were you ever --  
20 pardon me.

21 Well, according to Inspector  
22 Cabana, at 8008, he says that it did, after you  
23 were there. At 8008 of the transcript -- I won't  
24 read it -- but it's clear in his evidence that is  
25 what he said.

1                   Does this concern you, that he was  
2                   having direct communication with ISI after you  
3                   were there?

4                   MR. ROY:    It doesn't concern me,  
5                   and I don't know if I was actually at the office  
6                   on that such a day.  I don't know.  Maybe I  
7                   wouldn't have been there.  But it does not concern  
8                   me in any event.

9                   MR. WALDMAN:  Would you at least  
10                  have expected to have been advised by Inspector  
11                  Cabana that these communications were taking place  
12                  after the fact so that you could be aware of what  
13                  was transpiring between DFAIT and the RCMP?

14                  MR. ROY:    I don't know of the  
15                  specific case.  But it's not only Inspector  
16                  Cabana; I believe Mr. Gould most likely would have  
17                  advised anyway me as well.

18                  MR. WALDMAN:  But you have no  
19                  recollection of being advised of any conversation  
20                  between Inspector Cabana because you just told us  
21                  that you weren't aware of any, after you were  
22                  there.  So it's clear that there was one, and you  
23                  weren't advised of it; correct?

24                  MR. ROY:    It is clear I wasn't --  
25                  no.  It's possible, yes.

1                   MR. WALDMAN:   Okay.   Now, when you  
2                   gave your statement to Inspector Garvie -- I won't  
3                   take you there unless we have to to save time.  
4                   You told him that you were at a conference between  
5                   September 26th and October 1st, and it was on  
6                   October 2nd that you learned about Mr. Arar's  
7                   detention.   Does that jibe with your recollection?

8                   MR. ROY:    Yes.

9                   MR. WALDMAN:   Now, would it be  
10                  fair to say that if you had not been at this  
11                  conference, you probably would have learned about  
12                  the detention earlier from the RCMP?

13                  MR. ROY:    I can't answer that.   I  
14                  wouldn't know.

15                  MR. WALDMAN:   No?   Well, if a  
16                  Canadian citizen was the subject of an A-OCANADA  
17                  investigation -- because you were aware of the  
18                  A-OCANADA investigation -- were detained in a  
19                  foreign jurisdiction and the RCMP were aware of  
20                  that, wouldn't that be something they would let  
21                  you know?

22                  Like, someone who was a part of a  
23                  national security investigation.   We know that  
24                  this had to do with an alleged al-Qaeda sleeper  
25                  cell in Ottawa, high-profile, extremely important

1 investigation, and the RCMP is told on the 26th  
2 that Mr. Arar is being detained in the United  
3 States. Isn't that something that you think ought  
4 to have been communicated to ISI?

5 MR. ROY: I can't answer that.

6 MR. WALDMAN: Now, it's true that  
7 when DFAIT found out about it, they were the ones  
8 that told you about it; correct?

9 You found out first about  
10 Mr. Arar's detention from DFAIT?

11 MR. ROY: That's correct.

12 MR. WALDMAN: That was the  
13 chronology?

14 MR. ROY: Correct.

15 MR. WALDMAN: So they were quite  
16 concerned. By this time they knew that there was  
17 an alleged al-Qaeda member, someone who the  
18 Americans said was an al-Qaeda member, who was a  
19 Canadian citizen, who was being detained in the  
20 United States, and they were sufficiently  
21 concerned about this and its import for RCMP work  
22 that they immediately told you about it as soon as  
23 you came back.

24 Is that correct?

25 MR. ROY: I presume so. It makes

1 sense.

2 MR. WALDMAN: And they passed on  
3 the first consular note to you, is that correct,  
4 as well? We know that they passed on consular  
5 notes to you about this. We'll get to that in a  
6 second.

7 They were so concerned about it  
8 that as soon as you came back on the 2nd, they  
9 told you about it. And then it turns out that the  
10 RCMP already knew about it when you went to check.

11 Now, on page 2 of your notes, it  
12 says -- of the time line, sorry. It says:

13 "Advised by Jonathan Solomon  
14 of ISI that Maher Arar has  
15 been arrested at JFK airport  
16 and consular not able to see  
17 him."

18 So that's when you first found out  
19 about Mr. Arar and his detention, is that correct?  
20 This is on your time line.

21 MR. ROY: Yes.

22 MR. WALDMAN: So then you go to  
23 the RCMP, and that's when you find out for the  
24 first time that Mr. Arar is a peripheral subject  
25 of the A-OCANADA investigation; is that correct?

1                   You got this information and then,  
2           if I understood your testimony, you went to the  
3           A-OCANADA -- that's the next line:

4                   "Met with A-INSET and  
5                   discussed Arar's situation."

6                   MR. ROY:  It's just the word  
7           "peripheral".  I don't know if it was mentioned to  
8           me.

9                   MR. WALDMAN:  My first question:  
10          Why would you go right to A-INSET?  That's the  
11          national security investigation team.  What about  
12          the information provided to you by Mr. Solomon  
13          caused you to go right to the A-INSET, because  
14          that's what it says.

15                  MR. ROY:  Yeah.

16                  MR. WALDMAN:  Within a very short  
17          time you are off at the INSET.  Why did you choose  
18          to go there?  What was it about the information  
19          that Mr. Solomon provided to you that caused you  
20          to go to --

21                  MR. ROY:  Nothing specific.  It's  
22          just, as I mentioned earlier, that's the people  
23          with who I spent some time at the beginning to get  
24          familiar with the investigation, so I was familiar  
25          with the individuals.  I don't think there was

1 anything mentioned to me that would point to do  
2 with A-OCANADA.

3 MR. WALDMAN: Okay. So if we look  
4 at the time frame here, your next entry is on  
5 October 8th, but we know that there were other  
6 things that happened between that October 2nd and  
7 October 8th. I just want to make sure I  
8 understand.

9 You were in the office October  
10 3rd; right?

11 MR. ROY: Yes.

12 MR. WALDMAN: October 4th,  
13 although Mr. Flewelling seems to remember having a  
14 conversation with you, you were away on leave;  
15 right?

16 The 5th and 6th was the weekend.  
17 I assume you didn't work on the weekend.

18 MR. ROY: No.

19 MR. WALDMAN: And so you had  
20 nothing to do with Mr. Arar on those days?

21 MR. ROY: Correct.

22 MR. WALDMAN: So you are back in  
23 the office on the 7th. And then on the 8th -- I  
24 just want to understand -- you might have stopped  
25 by the office and then gone to A-OCANADA, or you

1           went right to A-OCANADA on the 8th?

2                       MR. ROY:   A-OCANADA.

3                       MR. WALDMAN:  So you went right to  
4           A-OCANADA on the 8th.

5                       When you went to A-OCANADA on the  
6           8th, you already had in your possession the two  
7           consular notes that were given to you by Jonathan  
8           Solomon?

9                       MR. ROY:   I believe it was, yes.

10                      MR. WALDMAN:  Or by somebody.

11                      MR. ROY:   Yes.

12                      MR. WALDMAN:  By somebody in ISI.  
13           I don't really care who it is.

14                      So those two consular notes would  
15           have been given to you on the 7th; is that  
16           correct?

17                      MR. ROY:   Most likely the 8th, as  
18           I said.

19                      MR. WALDMAN:  How could it have  
20           been given to you on the 8th if you went right  
21           to --

22                      MR. ROY:   No, no.  Right through.  
23           I was at DFAIT, and then right from DFAIT I  
24           went -- I didn't go from home to "A".

25                      MR. WALDMAN:  So you went to DFAIT



1 first?

2 MR. ROY: Yes.

3 MR. WALDMAN: So you didn't go  
4 straight to A-OCANADA?

5 MR. ROY: No.

6 --- Pause

7 MR. WALDMAN: So what time do you  
8 normally get into the office?

9 MR. ROY: Varied.

10 MR. WALDMAN: Pardon me?

11 MR. ROY: It varied.

12 MR. WALDMAN: On a normal day,  
13 what time?

14 MR. ROY: Eight, nine.

15 MR. WALDMAN: Between eight and  
16 nine. According to the notes we have from one of  
17 the persons, the meeting started at 9:45 at  
18 A-OCANADA.

19 MR. ROY: Okay.

20 MR. WALDMAN: And how far is  
21 A-OCANADA from DFAIT? How long does it take you  
22 to travel -- we're not talking about the  
23 construction now on Sussex.

24 MR. ROY: Five minutes.

25 MR. WALDMAN: It's normally --

1           what -- about a five-minute ride? So from when  
2           you leave your office, go down the elevator, get  
3           in your car, go to A-OCANADA headquarters, park  
4           your car, and go up to the meeting at 9:45, how  
5           long would it have taken you to do all of that?

6                       MR. ROY: Five to ten minutes.

7                       MR. WALDMAN: Going down the  
8           elevator, getting in your car, driving over, that  
9           could all have been done in five or ten minutes?  
10          Okay.

11                      Was the October 8th meeting  
12          already scheduled at that time? Were you aware of  
13          that meeting on October 7th, or was this something  
14          that just came up on an urgent basis on October  
15          8th?

16                      MR. ROY: No, there was no meeting  
17          scheduled for October 8th.

18                      MR. WALDMAN: No, there was no  
19          meeting. So you just went? Once you got these  
20          documents, you went?

21                      MR. ROY: Yes.

22                      MR. WALDMAN: And your evidence is  
23          that you are not sure when you got them. It could  
24          have been the 7th or the 8th?

25                      MR. ROY: Yes, right.

1 MR. WALDMAN: But it wasn't before  
2 the 7th?

3 MR. ROY: No.

4 MR. WALDMAN: Because the only  
5 other day you were in the office would have been  
6 the 3rd.

7 MR. ROY: Yes.

8 MR. WALDMAN: Because the 4th you  
9 were away.

10 MR. ROY: Yes, and when I have a  
11 document, I deliver it within a certain time, yes.

12 MR. WALDMAN: So you got the  
13 documents probably on the 7th, and you went there  
14 on the 8th?

15 MR. ROY: Or most likely on the  
16 8th --

17 MR. WALDMAN: Or a meeting -- all  
18 right.

19 Now, you told us as well that  
20 Mr. Solomon had also shown you something on his  
21 computer screen.

22 MR. ROY: Yes.

23 MR. WALDMAN: Presumably this  
24 didn't happen contemporaneously with him giving  
25 you the documents; is that correct? It didn't

1           happen at the same time he gave you the documents?

2                       MR. ROY:  I'm not sure.

3                       MR. WALDMAN:  You are not sure?

4                       MR. ROY:  No.  I believe so, but  
5           I'm not sure.

6                       MR. WALDMAN:  So you are not sure  
7           when -- why would Mr. Solomon have shown you the  
8           computer screen of the document if he handed it to  
9           you?  I mean, if you don't recall, wouldn't it  
10          make sense that there would have been at least  
11          some passage of time between Mr. Solomon showing  
12          you this information on the computer screen and  
13          him handing you the CAMANT documents?  Otherwise,  
14          he could have just handed you the document.

15                      Isn't that fair?

16                      MR. ROY:  Yes, but I don't believe  
17          it was the same document.

18                      MR. WALDMAN:  Well, it was the  
19          same information.  The key information was  
20          Mr. Arar was detained --

21                      MR. ROY:  It was key information,  
22          but one was relevant to the state of health and  
23          threat, and the two documents, the paper documents  
24          that I got, they weren't specific to that.  There  
25          was three documents that we looked at earlier.

1                   MR. WALDMAN: But your evidence  
2 with respect to the document that you saw on the  
3 computer screen, if I recall it correctly, was  
4 that the key evidence from that document was that  
5 Mr. Arar was afraid --

6                   MR. ROY: Yes.

7                   MR. WALDMAN: -- of being deported  
8 to Syria?

9                   MR. ROY: Yes.

10                  MR. WALDMAN: That he had had a  
11 conversation with his brother?

12                  MR. ROY: Yes.

13                  MR. WALDMAN: Those were the two  
14 parts of the document?

15                  MR. ROY: Yes.

16                  MR. WALDMAN: And Mr. David took  
17 you to, I believe it was tab 10 of P-42, I think,  
18 in which that was what was more or less said?

19                  MR. ROY: Yes.

20                  MR. WALDMAN: And that was also  
21 one of the documents that -- or the same  
22 information was contained in one of the documents  
23 that you took to A-OCANADA, because that's what is  
24 contained in the notes of Callaghan.

25 --- Pause

1                   MR. WALDMAN: I just want to  
2 understand. You are now telling us there were  
3 three documents. One was the two that you had,  
4 and you saw a third different document?

5                   MR. ROY: Yes, that's exactly what  
6 we went through in the binder. One dealt with  
7 about a lawyer and the other was something to do  
8 with his brother.

9                   MR. WALDMAN: Right.

10                  MR. ROY: Those were a paper  
11 document. And then there was a third document,  
12 that was longer, and it mentioned about al-Qaeda  
13 and it mentioned about being --

14                  MR. WALDMAN: Right. And that was  
15 one we took you to. That was the consular visit  
16 that was on October 2nd.

17                  MR. ROY: Third, I think.

18                  MR. WALDMAN: October 3rd.

19                  I'm just trying to understand. It  
20 doesn't make sense to me, sir, that if Mr. Solomon  
21 gave you the hard copy of two documents, that he  
22 would have shown you at the same time this other  
23 document on the computer screen?

24                  I mean, I believe there must have  
25 been at least some hours or a day between the two;

1           would you not agree with that? It wouldn't make  
2           any sense otherwise.

3                         MR. ROY: Well, the documents were  
4           different.

5                         MR. WALDMAN: If he wanted to give  
6           you the information, he could have just handed it  
7           to you, handed you the document; right?

8                         MR. ROY: Yes, he could have. He  
9           could have. But from what I remember, I wasn't  
10          under the impression it was right there. I looked  
11          at the screen, and after that I'm given documents.  
12          But that will be for him to state otherwise.

13                        But that's my understanding.  
14          That's what I remember.

15                        MR. WALDMAN: So you don't have  
16          any understanding why he would have showed you a  
17          document from the screen and then given you  
18          another completely different document at the same  
19          time?

20                        MR. ROY: No.

21                        MR. WALDMAN: But is it fair to  
22          say you don't have a strong recollection of the  
23          timing of these two events?

24                        MR. ROY: Yes, it's fair to say  
25          that.

1                   MR. WALDMAN:   So he could have  
2 shown you the document on the 3rd; he could have  
3 shown it to you on the 7th.  You are not sure?

4                   MR. ROY:   I doubt that very much,  
5 but...

6                   Because of what I said earlier, I  
7 don't believe Mr. Solomon had access to that  
8 document in the sense that he was advised about  
9 consular access.  As I said earlier, I don't  
10 believe that ISI were aware of the consular visit.

11                  MR. WALDMAN:   My understanding --  
12 and someone could correct me if I'm wrong -- was  
13 that ISI had the same access to the CAMANT  
14 documents as anyone else in DFAIT.

15                  MR. BAXTER:   You are wrong,  
16 Mr. Waldman, I believe.

17                  Mr. Pardy has testified at length  
18 about this, Mr. Commissioner.

19                  MR. WALDMAN:   Then we'll move on.

20                  THE COMMISSIONER:  Just a second.  
21 There's a comment.

22                  MR. DAVID:   Mr. Pardy's testimony  
23 is to the effect that the CAMANT system notes are  
24 not accessible to Mr. Solomon within the ISI  
25 offices until November.  That was Mr. Pardy's



1 testimony.

2 MR. WALDMAN: So it was November.  
3 All right. I just want to clarify something about  
4 some other information you gave us.

5 You told us that after you spoke  
6 to Mr. Solomon on October 2nd you went to  
7 A-OCANADA, and that's when you became aware that  
8 Mr. Arar was part of this A-OCANADA al-Qaeda  
9 sleeper cell investigation; right?

10 And so you came back and according  
11 to your time line you say:

12 "Advised Jonathan Solomon of  
13 ISI that we were aware of his  
14 detention."

15 Right? But in evidence with  
16 Mr. David this morning, you told us more. You  
17 told us that, in fact, you believe you told  
18 Mr. Solomon much more than that. You would have  
19 told him that the RCMP had been aware that  
20 Mr. Arar was detained before he arrived on the  
21 26th; that they sent down the questions; that  
22 Mr. Arar was part of an A-OCANADA investigation.  
23 Right?

24 MR. ROY: Yes.

25 MR. WALDMAN: So you would have

1 told him that?

2 MR. ROY: Yes.

3 MR. WALDMAN: And so Mr. Solomon  
4 would have been aware, well aware at that time, as  
5 of October 2nd, that the RCMP had had a role in at  
6 least providing information to the Americans about  
7 Mr. Arar while he was being detained in the United  
8 States? So ISI was aware of that as of October  
9 2nd?

10 MR. ROY: They were aware that --  
11 the RCMP were aware, yes.

12 MR. WALDMAN: And that the RCMP  
13 had sent questions to the U.S.?

14 MR. ROY: Yes.

15 MR. WALDMAN: If that's the case,  
16 if I could ask you to go to the Garvie report at  
17 page 30 -- it appears in other areas as well -- we  
18 know that on the 16th you attended a meeting where  
19 Mr. Pardy posed questions, and on the 18th  
20 Superintendent Pilgrim responds to the questions.

21 What strikes me is that the  
22 questions contain information that you had already  
23 provided to Mr. Solomon.

24 For example, on page 30 of the  
25 Garvie report, it says:

1 "What information has been  
2 shared with the U.S.  
3 concerning Maher Arar?"

4 And so then they say they had  
5 opened -- open investigation, communications, and  
6 all available information was shared.

7 "How did the U.S. become  
8 aware/interested in Arar?"

9 It says:

10 "U.S. authorities learned of  
11 Arar through a sharing of  
12 information --"

13 And then it goes through a list of  
14 questions.

15 And it strikes me that this was  
16 all information that you had already provided to  
17 Mr. Solomon. You had told Mr. Solomon all of  
18 this. You had told him that the Americans had  
19 become aware of Mr. Arar on the 26th; that they  
20 had provided information -- that Canadians had  
21 provided -- that the Canadians were aware that  
22 Mr. Arar was detained on the 26th; that the  
23 Canadians had provided information.

24 Why would Mr. Pardy be asking you  
25 the same questions if you had already provided

1           this information to Mr. Solomon?

2                            Could it be that Mr. Solomon  
3           hadn't shared the information with Mr. Pardy?

4                            MR. ROY:  I don't see there in the  
5           same -- covering the same elements.  We already  
6           knew since the 26th and questions were sent.  
7           That's a far cry from what you have here for  
8           questions and answers.

9                            MR. WALDMAN:  So the fact -- so  
10          that Mr. Pardy would still want to know --  
11          Mr. Pardy, if he had been briefed by Mr. Solomon,  
12          would have been aware from your briefing that on  
13          September 26th the RCMP had been made aware of the  
14          U.S. detention, that the Canadians were sending  
15          information down during the course.  Why would  
16          they have to ask about the information shared with  
17          the U.S. if you had already told Mr. Solomon that  
18          they had been sending questions down and that  
19          there was communication going back and forth  
20          during all of this time while Mr. Arar was being  
21          detained?

22                           MR. ROY:  You are going to have to  
23          ask Mr. Pardy that question.

24                           MR. WALDMAN:  You provided the  
25          answer already to Mr. Solomon.  You told

1 Mr. Solomon on the 2nd that there was this  
2 information-sharing going on already; right?

3 And Mr. Pardy is asking the same  
4 question on the 16th.

5 MR. ROY: You will have to ask  
6 Mr. Pardy that.

7 MR. WALDMAN: Right, right. But  
8 you don't have any explanation as to why, on  
9 October 16th, Mr. Pardy is asking the same  
10 question with respect to information you provided  
11 to Mr. Solomon on October 2nd?

12 MR. ROY: There's a lot more  
13 questions being asked here.

14 MR. WALDMAN: Right. But some of  
15 them are duplications?

16 MR. ROY: Some might be.

17 --- Pause

18 MR. WALDMAN: So when you  
19 mentioned at this October 8th meeting that  
20 Mr. Arar -- that the information you had was that  
21 because Mr. Arar was a dual national, he might be  
22 deported to Syria? I just want to clarify the  
23 reaction of the other people around the table, all  
24 right?

25 MR. ROY: I don't remember saying

1           that he might. The one that I did mention, that  
2           he feared go to Syria. As I said earlier,  
3           somebody repeated "Syria"? And that's the element  
4           of surprise that I've noted.

5                         MR. WALDMAN: Okay. But did  
6           people at that point think -- did you get any  
7           sense that anyone thought this was a possibility,  
8           that he might be deported to Syria on October 8th?

9                         MR. ROY: No, they were expecting  
10          Mr. Arar to come back to Canada at that point.

11                        MR. WALDMAN: But by this time,  
12          there was mention of him being a dual national;  
13          right? That was in the notes; that people were  
14          aware that he was a dual national.

15                        MR. ROY: Right.

16                        MR. WALDMAN: And as a dual  
17          national, people would have been aware that when  
18          someone is deported they could be deported to  
19          their country of citizenship. So legally there  
20          might have been a basis in U.S. law to deport him  
21          to Syria, or otherwise why would the issue of dual  
22          nationality have come up?

23                        MR. ROY: Can you repeat that a  
24          little bit?

25                        MR. WALDMAN: People were aware

1           that Mr. Arar was a dual national at that point?  
2           It's in the notes.

3                         MR. ROY:  Yes, I believe some  
4           were.

5                         MR. WALDMAN:  And the significance  
6           of dual nationality, is it not that if you are a  
7           national of a country under international law, you  
8           can be deported to that country.  You are aware of  
9           that; right?

10                        MR. ROY:  I don't believe so.  I'm  
11           no expert as far as this goes.  I don't believe  
12           you are right.

13                        MR. WALDMAN:  Were you personally  
14           aware that if you are a citizen -- as Mr. Arar was  
15           a citizen of Syria, that made Syria possible for  
16           his deportation there.  Is that the significance  
17           of the dual nationality in your mind?

18                        MR. ROY:  I'm not aware.

19                        MR. WALDMAN:  So why would the  
20           fact that he was a dual national have come up  
21           during this meeting then if it weren't significant  
22           in some way or another?  It's mentioned in the  
23           notes that he was a dual national.

24                        MR. ROY:  Yes, it is mentioned,  
25           yeah.

1                   MR. WALDMAN: It is mentioned. So  
2 you don't know why someone thought it important  
3 that -- to mention Mr. Arar's dual nationality?  
4 You weren't aware that that was a legally  
5 significant point?

6                   MR. ROY: I was not aware whether  
7 that could be -- it could have any effect on that.

8                   MR. WALDMAN: Did anyone during  
9 the course of this meeting say, "Oh, my god, they  
10 are going to send him to Syria. We know that El  
11 Maati had been tortured; this is really bad. We  
12 better do something to stop this"? On October  
13 8th.

14                  MR. ROY: What is the question?

15                  MR. WALDMAN: On October 8th, when  
16 you mentioned that there was this concern, at  
17 least for Mr. Arar, that it might be possible that  
18 as a dual national he might be deported to Syria,  
19 did anyone say, "Oh, my god, we can't let that  
20 happen. We know that Mr. El Maati was tortured  
21 there. We don't want this to happen to Mr. Arar."  
22 Did anyone in the room react in that fashion?

23                  MR. ROY: Not that I recall.

24                  MR. WALDMAN: So no one brought up  
25 any concerns about this?



1 MR. ROY: As I said, there was a  
2 fear from -- I know that there was a fear of being  
3 deported. That's all there was. It's not like he  
4 was going to be deported.

5 MR. WALDMAN: So there was no  
6 conversation amongst any of the A-OCANADA  
7 investigators about a concern that Mr. Arar might  
8 be subject to mistreatment if he were sent to  
9 Syria?

10 MR. ROY: There could have been,  
11 but maybe after I left. I didn't take part in a  
12 discussion as such as I remember.

13 MR. WALDMAN: While you were  
14 there, there was no discussion --

15 MR. ROY: Not while I was there,  
16 no.

17 MR. WALDMAN: And there was no  
18 discussion of interceding to prevent Mr. Arar's  
19 deportation to Syria at that time?

20 MR. ROY: Not that I remember, no.

21 MR. WALDMAN: Well, in the notes,  
22 it says, of the RCMP time line, page 5 --

23 MR. BAXTER: Can we get that  
24 document in front of the witness, please,  
25 Mr. Waldman?

1 MR. WALDMAN: Page 5 of the RCMP  
2 chronology. It's also in the Garvie report.

3 I think it's P-84, page 5. 168.  
4 --- Pause

5 MR. WALDMAN: Perhaps I could just  
6 show this because we are having difficulty  
7 locating it.

8 THE COMMISSIONER: Sure. Please  
9 do.

10 MR. WALDMAN: Were you present at  
11 this time when this concern was raised, that by  
12 going to interview him in the United States and  
13 that he were sent to Syria, the perception would  
14 be damaging to the RCMP? Were you there?

15 MR. ROY: No.

16 MR. WALDMAN: So you didn't hear  
17 that part of this conversation on that day?

18 MR. ROY: No.

19 MR. WALDMAN: I would like to move  
20 on to another area, sir.

21 --- Pause

22 MR. WALDMAN: From your notes and  
23 your evidence this morning, we know that you were  
24 aware that Mr. Edelson, who was representing  
25 Mr. Almalki and Mr. Arar at this time, made a

1 request for a letter to help secure Mr. Arar's  
2 release.

3 You were aware of that; right?

4 MR. ROY: Vaguely.

5 MR. WALDMAN: You were aware of a  
6 meeting that took place between Mr. Edelson and  
7 people from A-OCANADA --

8 MR. ROY: Yes. We covered that  
9 earlier, yes.

10 MR. WALDMAN: If we could go to  
11 P-83, Tab 2, page 206.

12 --- Pause

13 MR. WALDMAN: Have you found that,  
14 sir? It's something to Commissioner Proulx --

15 MR. ROY: What page, sorry?

16 MR. WALDMAN: 206.

17 MR. ROY: Tab 3, you said?

18 THE COMMISSIONER: Tab two.

19 MR. WALDMAN: Tab 2, page 206.

20 MR. ROY: 306? I don't go to 306.

21 MR. WALDMAN: 206.

22 MR. ROY: Oh, sorry.

23 MR. WALDMAN: Did you find that?

24 There's a memo from December 5th, 2002.

25 MR. ROY: Yes.

1 MR. WALDMAN: To Commissioner  
2 Proulx, and it's -- there's concern about  
3 Mr. Edelson's letter/request.

4 MR. ROY: Yes.

5 MR. WALDMAN: So there was a  
6 concern that Mr. Pardy was asking Mr. Edelson to  
7 get a letter in which the RCMP -- from the RCMP,  
8 where the RCMP said that Mr. Arar wasn't wanted  
9 for any investigation in Canada, and the RCMP was  
10 unhappy about this. Were you aware of that?

11 MR. ROY: Yeah.

12 MR. WALDMAN: Now, did you --  
13 there's a suggestion in this memo that you were  
14 supposed to speak to Mr. Livermore about this.  
15 Did you have a conversation with Mr. Livermore  
16 about Mr. Pardy and the role he was playing in  
17 overstepping his bounds; do you recall?

18 MR. ROY: No. It's not -- what's  
19 written is not what you've said. What it says is  
20 I was asked as to who is the best person to speak  
21 with in regards to Mr. Pardy. I asked  
22 Mr. Heatherington that, and the answer was,  
23 Mr. Livermore. And that's what it states here.

24 MR. WALDMAN: Okay. So did you  
25 have -- aside from speaking to Mr. Heatherington

1           about who you should speak to, did you have any  
2           other role at all in dealing with this issue?

3                         MR. ROY:  No.

4                         MR. WALDMAN:  And you had no other  
5           conversation.  So in terms of your conversation  
6           with Mr. Heatherington, what did you say to him?  
7           If you asked him who you should speak to, how did  
8           you explain this?  What was the ... The RCMP's  
9           upset about Mr. Pardy and we want to know who we  
10          should discuss this with?

11                        MR. ROY:  I can't remember the  
12          words that I used but it would have been something  
13          along the lines of -- I can't remember.  I can't  
14          remember what I said to him.

15                        MR. WALDMAN:  Now, we know that  
16          there was effort to obtain a joint letter  
17          between -- to be sent to the Syrian foreign  
18          minister from the Minister of Foreign Affairs and  
19          the Solicitor General, and you have already told  
20          us that you were involved in the conversations  
21          around that letter.

22                        MR. ROY:  I don't know what you  
23          mean by "involved in conversations."  But, yes,  
24          there was a wording, and I forwarded it to CID and  
25          they forwarded it under another wording that they

1 found more appropriate in that extent. Is that  
2 what you're referring to?

3 MR. WALDMAN: Yes.

4 MR. ROY: Okay.

5 MR. WALDMAN: So were you  
6 attempting to, in any way, mediate between the  
7 opposing views? We saw there was very different  
8 proposals with respect to the wording of the  
9 letter. Was it your job at all to mediate, or you  
10 just passed the information up and back?

11 MR. ROY: I just passed the  
12 information up and back.

13 MR. WALDMAN: Were you in any way  
14 involved in drafting the wording that was  
15 eventually proposed by the RCMP, that he was the  
16 subject of a national security investigation?

17 MR. ROY: No.

18 --- Pause

19 MR. WALDMAN: I'm just checking my  
20 notes. I think I'm almost done, Mr. Commissioner.

21 THE COMMISSIONER: Okay.

22 --- Pause

23 MR. WALDMAN: I'd like you to go  
24 to your time line, to P-208. There's an entry  
25 03/05/01. It says:

1 "Briefing note to  
2 commissioner, concern for  
3 embarrassment to PM. File."

4 Did you write that briefing note?

5 MR. ROY: No.

6 MR. WALDMAN: So why would you  
7 have been -- so this was just something that was  
8 copied to you?

9 MR. ROY: For my information, yes.

10 MR. WALDMAN: Right. So there was  
11 concern that if the Prime Minister got involved  
12 with Mr. Arar, it might cause him embarrassment.  
13 So you were aware of that briefing note, but you  
14 didn't have anything to do with it.

15 MR. ROY: No.

16 MR. WALDMAN: Thank you,  
17 Mr. Commissioner. Those are all my questions.

18 THE COMMISSIONER: Thank you very  
19 much, Mr. Waldman.

20 Mr. Boxall?

21 EXAMINATION

22 MR. BOXALL: Sir, you indicated  
23 your role was to facilitate discussions between  
24 the RCMP officers and the DFAIT experts in any  
25 particular situation?

1 MR. ROY: That's correct.

2 MR. BOXALL: And so it would be  
3 your role to make sure that the RCMP officers  
4 spoke to the appropriate persons at DFAIT with the  
5 expertise to assist them?

6 MR. ROY: Yes.

7 MR. BOXALL: So, for example, with  
8 respect to Mr. Waldman's questions about RCMP  
9 officers knowing about human rights records in  
10 Syria, it would be your job then to assist the  
11 RCMP officers so they could speak with the DFAIT  
12 experts who would know about the human rights  
13 records?

14 MR. ROY: Yes.

15 MR. BOXALL: Right? And that's  
16 what you did?

17 MR. ROY: Yes, so did ISI, the  
18 members of ISI as well.

19 MR. BOXALL: Right. So you would  
20 put them in contact with the right persons.

21 MR. ROY: Yes.

22 MR. BOXALL: And once you had  
23 arranged for the RCMP investigator to speak with  
24 the appropriate expert at DFAIT, they would be --  
25 it would be quite appropriate for them to speak



1 direct?

2 MR. ROY: I have no problem with  
3 it.

4 MR. BOXALL: Right. So once  
5 Inspector Cabana knows who the expert is at DFAIT,  
6 or if the DFAIT expert knows that Inspector Cabana  
7 is involved in the investigation, they can proceed  
8 directly and communicate directly between the two  
9 of them?

10 MR. ROY: I see no problem.

11 MR. BOXALL: No problem. Okay.  
12 And, sir, on October the 8th, when you attended at  
13 A-OCANADA and indicated to them about Mr. Arar's  
14 fears, we now know that Mr. Arar was already gone  
15 from the United States by then in any event;  
16 correct?

17 MR. ROY: Yes.

18 MR. BOXALL: Okay. And, sir, if  
19 you could turn to page 25 of your notes, please,  
20 sir? The top of the page, sir. You were asked a  
21 number of questions by Mr. David about these  
22 entries and what I would suggest is hearsay  
23 information about what Mr. Powell might say or has  
24 said.

25 Would you agree with me that this

1           wasn't so much information as it was hearsay  
2           information from which you didn't know the source  
3           of what Mr. Powell had threatened to say or had  
4           said at some unknown meeting; would you agree?

5                         MR. ROY:  Yes, I did not know --

6                         MR. BOXALL:  And you didn't know  
7           the source of that?

8                         MR. ROY:  No.

9                         MR. BOXALL:  Furthermore, sir, I  
10          take it you're aware that subsequent statements by  
11          senior American officials have indicated that it's  
12          clearly false that the RCMP was in any way  
13          supporting his transfer?  They said that it was an  
14          American unilateral decision.

15                        MR. ROY:  That's correct.

16                        MR. BOXALL:  Thank you, sir.

17          Those are the questions I have.

18                        THE COMMISSIONER:  Mr. Baxter?

19                        MR. BAXTER:  I have no questions,  
20          Mr. Commissioner.

21                        THE COMMISSIONER:  Mr. David?

22                        MR. DAVID:  Just very briefly,  
23          Mr. Commissioner.

24          EXAMINATION

25          [TRANSLATION]

1 MR. DAVID: In French?

2 MR. RICHARD ROY: Yes, yes.

3 Please.

4 MR. DAVID: Mr. Roy -- I will

5 leave the ---

6 You said that, to the best of your

7 knowledge, according to what you understood, ISI

8 had been made aware of Mr. Arar's consular visit

9 in New York a few days after the fact.

10 MR. RICHARD ROY: To the best of

11 my knowledge, yes.

12 MR. DAVID: To the best of your

13 knowledge.

14 MR. RICHARD ROY: Yes.

15 MR. DAVID: Without being able to

16 categorically say yes.

17 MR. RICHARD ROY: Correct.

18 MR. DAVID: On what basis -- what

19 makes you say -- what is your basis for thinking

20 that?

21 MR. RICHARD ROY: Based on a

22 conversation I overheard at the ISI office and --

23 to the effect that ISI members were displeased

24 about it.

25 Like I said earlier, I may be

1 mistaken. It could have been another case, but I  
2 don't think so, because we were dealing with Mr.  
3 Arar at the time.

4 And I also had a conversation with  
5 Mr. Saunders, and in any case, what I understood  
6 was that -- indeed, a few days went by before ISI  
7 was informed.

8 But -- they are obviously in a  
9 better position to say, but that's my  
10 understanding.

11 MR. DAVID: So your understanding  
12 comes from a conversation you overheard?

13 MR. RICHARD ROY: Yes.

14 MR. DAVID: Not one in which you  
15 participated?

16 MR. RICHARD ROY: No -- not  
17 participated. Not actively, but I was there,  
18 present.

19 MR. DAVID: You were present.

20 MR. RICHARD ROY: Yes.

21 MR. DAVID: And Mr. Saunders was  
22 there, definitely.

23 MR. RICHARD ROY: Yes.

24 MR. DAVID: Do you remember who  
25 else was there?

1 MR. RICHARD ROY: No, I don't  
2 remember who else.

3 MR. DAVID: And so displeasure was  
4 expressed over the fact that there had been a gap  
5 of time between the consular visit and when they  
6 actually found out that the visit had taken place?

7 MR. RICHARD ROY: Yes.

8 MR. DAVID: Between consular  
9 services and the ISI office?

10 MR. RICHARD ROY: Correct.

11 MR. DAVID: That's what you  
12 remember.

13 MR. RICHARD ROY: Yes.

14 MR. DAVID: Do you have anything  
15 else to tell us about this, something that could  
16 shed some light?

17 MR. RICHARD ROY: No.

18 MR. DAVID: Second thing, Mr. Roy,  
19 at the beginning of your testimony you described  
20 the type of work environment, your office at ISI.  
21 You described the offices as being secure.

22 Had a pass been given to you to  
23 enter and access ISI offices?

24 MR. RICHARD ROY: Yes.

25 MR. DAVID: To your knowledge, is

1           there a file or a document -- that was kept -- is  
2           it possible to track the comings and goings of  
3           people by consulting a file?

4                         MR. RICHARD ROY:  I don't know.

5                         MR. DAVID:  You don't know.

6                         MR. RICHARD ROY:  It's possible,  
7           but I couldn't tell you.

8                         MR. DAVID:  Okay.

9                         Third, I'd like to refer you to  
10          your personal notes.  It's Exhibit P-206 again.  
11          First page of your notes.

12                        It's simply to clarify a point  
13          that Mr. Waldman raised with you concerning the  
14          meeting of September 10, 2002.

15                        You had been in the position for  
16          seven days.  You had started on September 3, 2002.  
17          So, it really was in the first days when you  
18          started as a liaison officer that you attended  
19          this meeting, and you understood that the meeting  
20          concerned Mr. El Maati's case in Egypt?

21                        Is that your understanding of  
22          things?

23                        MR. RICHARD ROY:  Not exactly.

24                        MR. DAVID:  Then could you tell us  
25          what was discussed at this meeting on September

1 10, 2002?

2 MR. RICHARD ROY: I don't know  
3 whether I can talk about it.

4 MR. BAXTER: May we have a moment,  
5 please, Mr. Commissioner?

6 --- Pause

7 [ENGLISH]

8 MR. FOTHERGILL: Commissioner, I'm  
9 sorry for the interruption. It's a bit difficult  
10 for us to anticipate the witness's answer in such  
11 an open-ended question. The best I can do is if I  
12 remind all participants that we assert a claim of  
13 National Security Confidentiality with respect to  
14 most operational details of the investigation that  
15 gave rise to Mr. Arar's involvement with the RCMP.

16 So if he can answer in general  
17 terms without disclosing operational information,  
18 I think we can proceed.

19 THE COMMISSIONER: Thank you,  
20 Mr. Fothergill.

21 [TRANSLATION]

22 MR. DAVID: So, in very general  
23 terms, Mr. Roy, what was discussed?

24 MR. RICHARD ROY: I've already  
25 told you, that I don't really remember what was

1           discussed, but the point I wanted to make was that  
2           you mentioned Mr. ---

3                         MR. DAVID:   El Maati.

4                         MR. RICHARD ROY:   --- El Maati.

5                         What I want to say is that it  
6           wasn't strictly about Mr. El Maati.

7                         MR. DAVID:   But you discussed Mr.  
8           El Maati, among other things.

9                         MR. RICHARD ROY:   Yes, among other  
10          things.

11                        MR. DAVID:   Among other things.

12                        MR. RICHARD ROY:   Yes, yes.

13                        MR. DAVID:   During that  
14          conversation.

15                        And your notes -- simply read your  
16          notes.  The last passage, the last paragraph,  
17          there's reference to a discussion in which you  
18          noted what was said -- I think those are Michel  
19          Cabana's statements.

20                        MR. RICHARD ROY:   Yes ---

21                        MR. DAVID:   Could you simply read  
22          the passage?

23                        MR. RICHARD ROY:   First of all, I  
24          see here that Scott said there was a possibility  
25          of torture.



1 MR. DAVID: So Scott  
2 Heatherington. Possibility of torture.

3 MR. RICHARD ROY: And Mike Cabana  
4 says there's always a possibility he claimed he  
5 was tortured but that it did not actually happen.

6 MR. DAVID: Okay.  
7 That's in reference to Mr. El  
8 Maati in Egypt?

9 MR. RICHARD ROY: I can't say that  
10 it refers specifically to him, but ---

11 MR. DAVID: But it's a discussion,  
12 it's part of the discussion that took place on  
13 September 10.

14 MR. RICHARD ROY: Yes, I think  
15 that it's probably -- in broad terms, yes.

16 But I can't tell that it's  
17 specific to one situation, one individual. It  
18 could be hypothetical. It could ---

19 I can't tell you.

20 MR. DAVID: Basically, Mr. Roy, on  
21 September 10, at this meeting, Mr. Cabana was  
22 there, Ambassador Pillarella was there.

23 MR. RICHARD ROY: Yes.

24 MR. DAVID: There were some  
25 discussions. There was a discussion that dealt

1 with torture?

2 MR. RICHARD ROY: Apparently.

3 MR. DAVID: And obviously your  
4 notes reflect this.

5 Thank you.

6 [ENGLISH]

7 THE COMMISSIONER: Well, thank you  
8 very much, Superintendent Roy. That completes  
9 your evidence. I appreciate the time and effort  
10 you've put in to coming and giving your evidence.

11 MR. ROY: Thank you, sir.

12 THE COMMISSIONER: We will break  
13 for ten minutes. I think it will make sense to  
14 start with the next witness and perhaps get an  
15 hour in today with the next witness.

16 We will rise for ten.

17 THE REGISTRAR: Please stand.

18 --- Upon recessing at 3:58 p.m. /

19 Suspension à 15 h 58

20 --- Upon resuming at 4:09 p.m. /

21 Reprise à 16 h 09

22 THE REGISTRAR: Please be seated.

23 Veuillez-vous asseoir.

24 THE COMMISSIONER: Mr. Cavalluzzo?

25 MR. CAVALLUZZO: Commissioner. We

1           have Mr. Richard Flewelling with us, and  
2           Mr. Flewelling has been sworn before, so there's  
3           no need to have him sworn.

4                         THE COMMISSIONER:   You're still  
5           under oath.  There's no need to swear you again.

6           PREVIOUSLY SWORN:   RICHARD FLEWELLING

7                         MR. CAVALLUZZO:   There are a few  
8           documents I'd like to file in respect of  
9           Mr. Flewelling.  The first is his curriculum  
10          vitae.

11                        THE COMMISSIONER:   C-220 -- or,  
12          no, it's P-220.  It's late in the afternoon.  
13          P-220.

14                                 EXHIBIT NO. P-220:  
15                                 Curriculum vitae of Richard  
16                                 Flewelling

17          EXAMINATION

18                        MR. CAVALLUZZO:   Mr. Flewelling, I  
19          understand you have been with the Royal Canadian  
20          Mounted Police for approximately 23 years?

21                        MR. FLEWELLING:   That's correct.

22                        MR. CAVALLUZZO:   At the present  
23          time you are a corporal?

24                        MR. FLEWELLING:   Sergeant.

25                        MR. CAVALLUZZO:   Sergeant.  And

1           you are located where?

2                           MR. FLEWELLING: I'm presently  
3           posted back here in Ottawa as of August the 2nd.

4                           MR. CAVALLUZZO: August the 2nd.  
5           What is your present position?

6                           MR. FLEWELLING: I am presently  
7           with the major events protective policing here at  
8           headquarters.

9                           MR. CAVALLUZZO: When did you  
10          receive the promotion of sergeant?

11                          MR. FLEWELLING: Approximately  
12          April of this year.

13                          MR. CAVALLUZZO: April of 2005?

14                          MR. FLEWELLING: Yes.

15                          MR. CAVALLUZZO: Okay. And prior  
16          to that time, I understand that you became a  
17          corporal in 1987; is that correct?

18                          MR. FLEWELLING: That's correct.

19                          MR. CAVALLUZZO: Okay. I'd like  
20          to review just some of your responsibilities with  
21          the RCMP, and of course we're going to focus in on  
22          the period between June 2001 and May of 2003, when  
23          you were at the CID. But just prior to that time,  
24          just a few years ahead of that, as I say, you  
25          became a corporal in 1987.

1                   Now, between 1990 and 1994, you  
2 worked in British Columbia in the Prince George  
3 Municipal Detachment; is that correct?

4                   MR. FLEWELLING: That is correct.

5                   MR. CAVALLUZZO: Okay. And  
6 between 1994 and 1998, you worked at the RCMP  
7 depot division in Regina?

8                   MR. FLEWELLING: Yes, that's  
9 correct.

10                  MR. CAVALLUZZO: And your  
11 positions were, for a couple of years you were a  
12 facilitator, and for a couple of years you were a  
13 fitness instructor?

14                  MR. FLEWELLING: That's correct.

15                  MR. CAVALLUZZO: Okay. Between  
16 1998 and 2000, you were in New Brunswick?

17                  MR. FLEWELLING: Yes.

18                  MR. CAVALLUZZO: And where were  
19 you located there and what were you doing?

20                  MR. FLEWELLING: I spent two years  
21 as a team leader with the -- what they call  
22 District 2 in Oromocto with both rural and  
23 municipal detachments.

24                  MR. CAVALLUZZO: Okay. And you  
25 remained in New Brunswick. 2000, 2001, you were

1 in Fredericton?

2 MR. FLEWELLING: That is correct.

3 MR. CAVALLUZZO: What you were  
4 doing in Fredericton?

5 MR. FLEWELLING: I spent one year  
6 with the commercial crime unit.

7 MR. CAVALLUZZO: And in June of  
8 2001, you moved to national headquarters in  
9 Ottawa?

10 MR. FLEWELLING: Approximately  
11 June 23rd of that year, yes.

12 MR. CAVALLUZZO: Okay. And you  
13 moved into CID?

14 MR. FLEWELLING: That's correct.

15 MR. CAVALLUZZO: And in particular  
16 you worked in the National Security Offences  
17 Section?

18 MR. FLEWELLING: That's correct.

19 MR. CAVALLUZZO: Okay. Now we're  
20 going to come to your duties and responsibilities  
21 when you were at CID, but before doing that,  
22 you've got extensive training, that we see in your  
23 curriculum vitae. However, in respect of national  
24 security training, I understand that in February  
25 of 2002, you took the national security

1 enforcement course in Regina?

2 MR. FLEWELLING: That is correct.

3 MR. CAVALLUZZO: And that's, I  
4 understand, a ten-day course?

5 MR. FLEWELLING: Yes.

6 MR. CAVALLUZZO: And the syllabus  
7 for that course can be found in Exhibit P-12,  
8 Mr. Loeppky's Book of Documents.

9 I understand as well that in  
10 October of 2001, and September of 2002, you took  
11 an international working group on financial  
12 terrorism seminar or tutorial?

13 MR. FLEWELLING: Yes, that is  
14 correct.

15 MR. CAVALLUZZO: Is that correct?  
16 How long were those seminars or training courses?

17 MR. FLEWELLING: Each one of those  
18 would be about two to three days in duration.

19 MR. CAVALLUZZO: Okay. And as  
20 well the only other terrorism-, I guess, related  
21 course would be something referred to as the G-8  
22 terrorist workshop that you took at CSIS in April  
23 of 2001?

24 MR. FLEWELLING: Yes.

25 MR. CAVALLUZZO: And how long was

1           that workshop?

2                           MR. FLEWELLING:  Again, I believe  
3           that was a day, if not a day or two.

4                           MR. CAVALLUZZO:  Okay.  Now, in  
5           any of these courses, any of the three that we  
6           were referring to, was there any training whatever  
7           in respect of Muslim values, culture, traditions,  
8           religion?

9                           MR. FLEWELLING:  Not specifically,  
10          no.

11                          MR. CAVALLUZZO:  Okay.  Now, I'd  
12          like to now move from your curriculum vitae to  
13          your duties and responsibilities at CID, and in  
14          particular, I'm going to ask the clerk if he can  
15          give you Exhibit P-12, Tab 6, which is an  
16          organizational chart for the division at the  
17          material time.

18          --- Pause

19                          MR. CAVALLUZZO:  We have something  
20          here called the National Security Investigation  
21          Branch, and Mr. Loepky testified that this was  
22          the organizational chart which was effective  
23          between May 2001 and April of 2003, which would be  
24          the material time that we are reviewing.

25                          Now, in respect of the National



1 Security Investigations Branch, we see that at the  
2 top of the pyramid, or hierarchy, is something  
3 called the Assistant Commissioner, Criminal  
4 Intelligence Directorate, or Assistant  
5 Commissioner CID, and I understand that for the  
6 whole period of time that you were there, that  
7 position was held by Mr. Richard Proulx?

8 MR. FLEWELLING: That is correct.

9 MR. CAVALLUZZO: Okay. And if we  
10 move down to the IC, National Security  
11 Investigation Branch, I understand that for the  
12 material period of time that that position was  
13 held by Mr. Wayne Pilgrim?

14 MR. FLEWELLING: That's correct.

15 MR. CAVALLUZZO: And did  
16 Mr. Pilgrim hold that position for that period of  
17 time?

18 MR. FLEWELLING: Yes, he did.

19 MR. CAVALLUZZO: Okay. And what  
20 was your position in CID? I understand that if we  
21 go to the right there, we see a box called  
22 "National Security Offences Section." Is that the  
23 section in which you were employed?

24 MR. FLEWELLING: Yes.

25 MR. CAVALLUZZO: Okay. What was

1           your position?

2                           MR. FLEWELLING: My position would  
3 be under the reviewer analyst. Upon my first  
4 arrival there, I would have been surplus to  
5 establishment.

6                           MR. CAVALLUZZO: But it would be  
7 the position of reviewer analyst?

8                           MR. FLEWELLING: Yes.

9                           MR. CAVALLUZZO: And in respect of  
10 the NCO, or the National Commissioned Officer for  
11 the NSOS, or the National Security Offences  
12 Section, I understand that during the material  
13 time there were two different people maintaining  
14 that position? Initially who was it?

15                           MR. FLEWELLING: Upon my arrival,  
16 that position was vacant, and Corporal Tim O'Neill  
17 was taking over that position, in the acting role.

18                           MR. CAVALLUZZO: And then I  
19 understand that Mr. Ron Lauzon took that position  
20 from Mr. O'Neill?

21                           MR. FLEWELLING: Yes, I believe he  
22 arrived in mid 2002, or thereabouts.

23                           MR. CAVALLUZZO: And so that  
24 either Mr. O'Neill or Mr. Lauzon would be the  
25 supervisors to whom you would directly report?

1 MR. FLEWELLING: That is correct.

2 MR. CAVALLUZZO: Okay. Let us  
3 look, then, at the reviewer analyst position. Why  
4 don't you tell us, and let me just break this down  
5 into pre- and post-9/11. Let's deal initially  
6 with before 9/11 and tell us what you did as a  
7 reviewer analyst.

8 MR. FLEWELLING: Our functions as  
9 reviewer analysts were multi-faceted in that we  
10 were responsible for taking in any information  
11 that would have come in from a foreign or domestic  
12 agency, at which point we would analyze that  
13 information and try and review our database to see  
14 if there was additional information that we could  
15 go along with that piece of information, then  
16 determine who we would have to send it out to as  
17 far as our field divisions in order to conduct the  
18 investigation, if that's what it was.

19 A lot of our mandate surrounded  
20 anything that was of a terrorist nature, anything  
21 that was of a national concern or national  
22 interest.

23 Once that information was sent out  
24 or we had tasked our various units, then we would  
25 solicit that information to come back through our

1 unit, whereby we would again review it and  
2 determine who it had to go to.

3 I should also add that we would  
4 also take a look at that information and determine  
5 who else that we needed to engage in order to  
6 bring into the mix, in order to be able to deal  
7 with that information appropriately --

8 MR. CAVALLUZZO: So, for  
9 example --

10 MR. FLEWELLING: Who we had to  
11 inform.

12 MR. CAVALLUZZO: For example, if  
13 we could just take a hypothetical. If the FBI or  
14 other foreign agency tasked the RCMP with  
15 something, the task or the request would go  
16 through CID. You would sit down, analyse it,  
17 review it, make a determination as to where it  
18 should go, whether it should be a field unit or  
19 perhaps it may even go to the CBSA, the Canadian  
20 Border Services Agency, who may have  
21 responsibilities in respect of that; is that  
22 correct?

23 MR. FLEWELLING: Or maybe another  
24 unit if it didn't touch our area or our mandate.

25 MR. CAVALLUZZO: And what would

1           happen is after that tasking was completed,  
2           whether it be by a unit out in the field or by  
3           another Canadian agency, that information would  
4           flow back to you at CID?

5                         MR. FLEWELLING: That is correct.

6                         MR. CAVALLUZZO: And then you at  
7           CID would make a determination as to what would go  
8           and where it would go?

9                         MR. FLEWELLING: Yes.

10                        MR. CAVALLUZZO: And how it would  
11           go?

12                        MR. FLEWELLING: Correct.

13                        MR. CAVALLUZZO: And I'll come  
14           back to that.

15                        Now, how many people, in  
16           particular how many reviewer analysts did we have  
17           employed in CID just prior to 9/11?

18                        MR. FLEWELLING: At that time  
19           there were, including myself, five.

20                        MR. CAVALLUZZO: Okay. Now, with  
21           the events of 9/11, and shortly after 9/11, as we  
22           know, Bill C-36 was passed in December of 2001,  
23           and we have heard a great deal of evidence  
24           actually from Mr. Loepky and others that a great  
25           deal of funding came to the RCMP respecting the

1           responsibilities emanating from Bill C-36, and I'm  
2           wondering if you could just share with us briefly  
3           how your job as reviewer analyst changed as a  
4           result of 9/11, Bill C-36, and the increased  
5           funding?

6                           MR. FLEWELLING:  After 9/11, that  
7           was one thing where certainly the additional  
8           requests and the pressure placed on us to get to  
9           the various requests and get the various  
10          information out was quite extensive, and it really  
11          increased the pressure upon us to be able to do  
12          our job and our functions.

13                          If I move on to how the aspect of  
14          the -- the Bill C-36 aspect translated --

15                          MR. CAVALLUZZO:  Just before you  
16          do that, we've heard evidence about something  
17          called Project Shock --

18                          MR. FLEWELLING:  Yes.

19                          MR. CAVALLUZZO:  -- in which a  
20          number of -- hundreds, indeed thousands of tips,  
21          requests and so on, came in to the RCMP.  Now,  
22          were you, at CID, part of Project Shock?

23                          MR. FLEWELLING:  The initial week  
24          following September 11th, I was seconded to  
25          Transport Canada where I acted as a liaison

1           between Transport Canada and the RCMP in order to  
2           be able to deal with the landing of all aircraft,  
3           the searches, and then the ultimate reopening of  
4           civilian airspace.

5                       Once that was completed, I  
6           returned to headquarters, and I was assigned  
7           responsibility within Project Shock for the  
8           Provinces of Manitoba, Saskatchewan, Alberta,  
9           British Columbia, the three Territories, as well  
10          as to maintain a liaison with Transport Canada and  
11          to act as a liaison with the newly created  
12          Financial Intelligence Branch.

13                      MR. CAVALLUZZO: Now, in regard to  
14          the responsibilities relating to Western Canada  
15          and the three Territories, were you coordinating  
16          terrorist files that were active in those  
17          provinces and territories?

18                      MR. FLEWELLING: My role at that  
19          particular point in time ended up more of a  
20          processing of requests, where as they were coming  
21          in, we were identifying who they needed to go to  
22          and then shipping that information out, soliciting  
23          the information to come back in and trying to get  
24          it back to -- or funnelling it to whoever it  
25          needed to.

1 MR. CAVALLUZZO: Obviously, you've  
2 told us that the number of requests and demands  
3 created as a result of 9/11 increased  
4 substantially. Did that mean that there were  
5 going to be more reviewer analysts employed in the  
6 NSOS?

7 MR. FLEWELLING: Initially we  
8 functioned with the number that we had and then  
9 ultimately the numbers increased.

10 MR. CAVALLUZZO: Do you know what  
11 the numbers were by the time you left in April of  
12 2003?

13 MR. FLEWELLING: I believe there  
14 were approximately eight positions, so --

15 MR. CAVALLUZZO: And when you  
16 came, there were five?

17 MR. FLEWELLING: Yes.

18 MR. CAVALLUZZO: Now, before -- I  
19 want to deal specifically with  
20 information-sharing, and I'm going to come to  
21 that, because we have heard some evidence on that,  
22 and I'll introduce you to that evidence, but just  
23 before we do that, we've heard a great deal of  
24 evidence of something called Project OCANADA and  
25 we've also heard of something called Project



1 A-OCANADA, and I'm wondering if you had any  
2 dealings with Project A-OCANADA during your period  
3 of employment in the CID?

4 MR. FLEWELLING: Yes.

5 MR. CAVALLUZZO: And when did you  
6 start, shall we say, shepherding or being  
7 responsible for A-OCANADA?

8 MR. FLEWELLING: I was asked at  
9 the end -- or the beginning of June 2002, by  
10 Inspector McDougall to start taking a look at --  
11 looking at moving into that role.

12 MR. CAVALLUZZO: Okay. And when  
13 did you fully take charge in a supervisory  
14 capacity of Project A-OCANADA?

15 MR. FLEWELLING: I would say  
16 approximately mid-June, July, in around that  
17 range, where I was becoming the contact person for  
18 that role.

19 MR. CAVALLUZZO: Okay. I'm going  
20 to come back to that because I'm very interested  
21 in the relationship between CID and Project  
22 A-OCANADA.

23 But before doing that, there's one  
24 area that I would like to deal with, and that is  
25 information-sharing.

1 MR. FLEWELLING: Yes.

2 MR. CAVALLUZZO: Okay? Now, we've  
3 heard -- we've heard evidence as to the use of  
4 caveats, and I'm going to come back to that. But  
5 I want to just set the context up for my  
6 questions.

7 Now, if I can just save a wee bit  
8 of time. In terms of information-sharing before  
9 9/11 -- and let me just describe it how you  
10 described it to me and see if I've captured it  
11 correctly?

12 Let us look at an external agency  
13 once again, if we take the FBI. The FBI seeks  
14 information from the RCMP, or assistance, but  
15 let's just focus in on information. That would  
16 come to the CID?

17 MR. FLEWELLING: Yes.

18 MR. CAVALLUZZO: Now, where would  
19 that come from, pre-9/11? Would that come from  
20 FBI in Washington, FBI in Boston, FBI in Ottawa?  
21 Where would it come from?

22 MR. FLEWELLING: The actual  
23 request you're talking about?

24 MR. CAVALLUZZO: Yes.

25 MR. FLEWELLING: The actual

1 request would come from the U.S. Embassy.

2 MR. CAVALLUZZO: In...?

3 MR. FLEWELLING: In Ottawa.

4 MR. CAVALLUZZO: In Ottawa. Okay.

5 So it goes to the CID. You've told us that in  
6 respect of that request, as the reviewer analyst,  
7 you would analyse their request?

8 MR. FLEWELLING: That's correct.

9 MR. CAVALLUZZO: You would indeed  
10 process, and then you would assign it --

11 MR. FLEWELLING: Yes.

12 MR. CAVALLUZZO: -- to -- whether  
13 it's "A" Division that should get this request or  
14 another domestic agency such as CBSA, or CSIS,  
15 or --

16 MR. FLEWELLING: Or a number of  
17 various divisions.

18 MR. CAVALLUZZO: Then it would go,  
19 if we can call it, to the field, or to another  
20 agency, or to another division?

21 MR. FLEWELLING: Yes.

22 MR. CAVALLUZZO: After you had  
23 processed it?

24 MR. FLEWELLING: Correct.

25 MR. CAVALLUZZO: Now, after that

1 division, agency, or unit or whatever, wherever it  
2 went, got the information that was required, where  
3 would that information go?

4 MR. FLEWELLING: We would solicit  
5 that information, again we would review it to  
6 ensure --

7 MR. CAVALLUZZO: When you're  
8 saying "we," you're talking about CID?

9 MR. FLEWELLING: Yes.

10 MR. CAVALLUZZO: Okay. Go on  
11 then.

12 MR. FLEWELLING: We would review  
13 it, ensure that the content of that information  
14 didn't have any third party or another agency's  
15 information in it, and if it did, we would solicit  
16 approval for disseminating that information.

17 MR. CAVALLUZZO: And then that  
18 information would go to the agency, the foreign  
19 agency that was requesting?

20 MR. FLEWELLING: That is correct.

21 MR. CAVALLUZZO: Okay. Now, if we  
22 look at the purposes as to why that kind of  
23 information should go through CID, you've  
24 mentioned a couple of things, and if I could just  
25 summarize those with you.

1                   First of all, there's the "what"  
2 of it. What information is going to be sent to  
3 this foreign agency? You're concerned about  
4 things like national security. There's certain  
5 information that shouldn't go because of national  
6 security; isn't that correct?

7                   MR. FLEWELLING: That's correct.

8                   MR. CAVALLUZZO: I assume you're  
9 concerned about what's known as need-to-know. If  
10 it's personal information, you're not going to  
11 send all the personal information that you have,  
12 you're going to scrutinize that information on a  
13 need-to-know basis. You may pass that on to the  
14 foreign agency?

15                  MR. FLEWELLING: I want to make  
16 sure that the information is relevant and that  
17 we're aware of it so that we can inform even our  
18 management, if need be.

19                  MR. CAVALLUZZO: So that's the  
20 "what" of it: What information are you going to  
21 send to the foreign agency?

22                  And I guess what I didn't tie down  
23 there in terms of the foreign agency, would that  
24 go back to the American Embassy in Washington  
25 directly, or would it go to your LO in Washington?

1 MR. FLEWELLING: Pre-9/11, we  
2 would forward that information to our LO in  
3 Washington.

4 MR. CAVALLUZZO: And then the LO  
5 in Washington would deliver it to the --

6 MR. FLEWELLING: He would, in  
7 turn, go to the various U.S. agency that needed to  
8 be engaged.

9 MR. CAVALLUZZO: Okay. Just so  
10 that I'm clear. Now, pre-9/11, you told us the  
11 request would come from the American Embassy. Are  
12 you sure of that, or would it come from the LO in  
13 Washington, pre-9/11?

14 MR. FLEWELLING: Pre-9/11, that  
15 information would be -- would come in to our  
16 office, especially if it was with respect to the  
17 U.S. agency, I think you mentioned the FBI --

18 MR. CAVALLUZZO: Yeah, where --

19 MR. FLEWELLING: Then in that case  
20 it would come to us via the U.S. Embassy here in  
21 Ottawa.

22 MR. CAVALLUZZO: So it wouldn't  
23 come from the -- the FBI wouldn't bring it to the  
24 LO -- your LO in Washington who would then deliver  
25 it to Ottawa? It would come directly from the

1 Embassy?

2 MR. FLEWELLING: That is correct.

3 MR. CAVALLUZZO: Okay. So now  
4 we've dealt with what information. We're talking,  
5 once again, as to the reasons or rationale  
6 underlying why the information should be processed  
7 through CID. We've dealt with the what.

8 Now let's deal with the how of it.  
9 In other words, what we're talking about here,  
10 obviously, are whether caveats should be attached  
11 to the information. Is that something that CID  
12 would ensure was done?

13 MR. FLEWELLING: Yes. We would  
14 peruse the information to ensure that whatever  
15 information that was in that document was  
16 protected in terms of the caveat, yes.

17 MR. CAVALLUZZO: And how many  
18 caveats would you normally put on such information  
19 going to the FBI?

20 MR. FLEWELLING: For a document or  
21 a report that was going to a foreign agency, there  
22 would be two.

23 MR. CAVALLUZZO: The two? And  
24 it's: "This is the property of Canada" caveat?

25 MR. FLEWELLING: That would be

1 one.

2 MR. CAVALLUZZO: And what would be  
3 the other one?

4 MR. FLEWELLING: The other one I  
5 believe would say: "This is the property of the  
6 RCMP and for your sole use for information  
7 purposes," something to that effect.

8 MR. CAVALLUZZO: Okay. Now, the  
9 third matter that CID would be concerned about.  
10 We've talked about what information is going, how  
11 it's going, that is, with caveats. And the other  
12 aspect you mentioned, and that is, that if you  
13 were going to give information that the RCMP had  
14 obtained from another Canadian agency --

15 MR. FLEWELLING: Yes.

16 MR. CAVALLUZZO: -- which had  
17 caveated that information, what would you do at  
18 CID?

19 MR. FLEWELLING: If it was to be  
20 shared, we would go back to the originator, which  
21 would be either the field unit or we'd go to the  
22 headquarters level here in Ottawa, to advise them  
23 that this information was going to be passed along  
24 and do we have the authorization to do that?

25 MR. CAVALLUZZO: Now, I guess the



1 final, excuse me, the final rationale underlying  
2 why things should go through CID is coordination.  
3 Would you have a role to play in terms of  
4 coordinating information from different units,  
5 divisions, agencies?

6 MR. FLEWELLING: That would be  
7 part of my role.

8 MR. CAVALLUZZO: Okay. And that's  
9 presumably an important role if you're getting  
10 information from different Canadian agencies?

11 MR. FLEWELLING: Yes, at least  
12 from the headquarters' perspective, yes.

13 MR. CAVALLUZZO: Now, I'd like to  
14 move on now to 9/11 and whether things changed  
15 after 9/11, and we've heard evidence -- we've  
16 heard evidence in public from two different  
17 witnesses. We've heard Mr. Cabana testify. You  
18 know what his testimony is in respect of that, and  
19 that is that he testified that caveats are down,  
20 the free flow of information, that we didn't put  
21 caveats on because there was implied caveats. And  
22 then we heard from Deputy Commissioner Loepky who  
23 said that the policy still applied after 9/11,  
24 that is, that the policies requiring the  
25 imposition of caveats on documents or information

1 going to other agencies.

2 And the question that I have for  
3 you is that after 9/11, were you aware of this  
4 idea of no caveats? That when you shared  
5 information or documents with partner agencies,  
6 whether it be in Canada or in the United States --  
7 I'm talking about partner agencies -- that you did  
8 not have to put caveats on these documents or  
9 reports?

10 MR. FLEWELLING: Not that I'm  
11 aware of.

12 MR. CAVALLUZZO: Clearly it was  
13 never in writing?

14 MR. FLEWELLING: Not that I saw,  
15 no.

16 MR. CAVALLUZZO: And did you get  
17 any understanding from any of your superiors,  
18 whether it be Proulx, Pilgrim, Lauzon, or O'Neill,  
19 that caveats were down, "Boys, we don't have to  
20 worry about putting the caveats on. Let's just  
21 get the information over in a timely way"?

22 MR. FLEWELLING: I don't recall  
23 ever receiving any instructions with respect to  
24 caveats being down. There was, however, a  
25 tremendous emphasis placed on ensuring that we

1 shared the information in a timely fashion and as  
2 quickly as possible.

3 MR. CAVALLUZZO: So this idea that  
4 we share information quickly, because of the  
5 perceived threat that obviously existed after  
6 9/11 --

7 MR. FLEWELLING: Yes.

8 MR. CAVALLUZZO: -- let's get it  
9 done quickly. But did that mean that the policy  
10 still applied, that is, the policies respecting  
11 caveats?

12 MR. FLEWELLING: Again, I don't  
13 recall there being anything written or other with  
14 respect to caveats being down.

15 MR. CAVALLUZZO: Were you aware,  
16 post-9/11 -- were you aware that information or  
17 documentation was being sent to American or  
18 Canadian agencies without caveats?

19 MR. FLEWELLING: Yes.

20 MR. CAVALLUZZO: And is there any  
21 explanation as to why that was happening?

22 MR. FLEWELLING: I really don't  
23 know if there was any reason or if there was any  
24 preexisting arrangements or anything. However, I  
25 do know that when I was asked to start to take

1 over, one of the instructions that I was given by  
2 Mr. Pilgrim was to try and bring back the pre-9/11  
3 way of doing things, if you will.

4 MR. CAVALLUZZO: We're going to  
5 come to that. Indeed, when Mr. Pilgrim instructed  
6 or directed you to start focusing in on Project  
7 A-OCANADA, one of the instructions he gave you, as  
8 you've just stated, is bring the situation back to  
9 the pre-9/11 policies, which obviously would  
10 include caveats?

11 MR. FLEWELLING: I think the other  
12 thing too is that because of the 9/11 and with the  
13 redistribution of resources, that there were a  
14 number of new people that were brought in to the  
15 national security environment that perhaps weren't  
16 fully aware as to what some of the roles and  
17 policies were, and part of our function was to try  
18 and to get that message back out, that, yes, let's  
19 try and follow the policies as they exist, and  
20 that in the enforcement and in the intelligence  
21 world, there is that implied caveat that whatever  
22 information you get, you treat it as if it does  
23 have caveats.

24 MR. CAVALLUZZO: So even if there  
25 is no written caveat, there is an implied caveat,

1           that information will be used for intelligence  
2           purposes only, and if you're going to use it for  
3           another purpose, then you'd better come back to  
4           the RCMP to seek your permission?

5                         MR. FLEWELLING:    Yes.

6                         MR. CAVALLUZZO:    Okay.  Now, you  
7           mentioned something about new people coming as a  
8           result of 9/11, new people coming on to, if we can  
9           call it, the national security scene, and may have  
10          been used to criminal investigations before and  
11          weren't necessarily sensitive to the needs of a  
12          national security investigation; is that fair?

13                        MR. FLEWELLING:    That would be  
14          fair.

15                        MR. CAVALLUZZO:    And of course one  
16          of the things that's very important for a national  
17          security investigation is what you talked about  
18          before, that is, the coordination of  
19          investigations, the coordination of information,  
20          and certainly, in terms of dealings with foreign  
21          or other agencies, there has to be that kind of  
22          mediation between the field units and the outside  
23          agencies; is that fair?

24                        MR. FLEWELLING:    I think it's  
25          important to state that the actual investigation

1           that is being done is coordinated at the field  
2           level, at the division level.

3                         MR. CAVALLUZZO:   Right.

4                         MR. FLEWELLING:   And then the  
5           passing of that information, or the securing of  
6           that information and to be disseminated, or to  
7           ensure policy so on and so forth, is looked after,  
8           then that would fall within our responsibility.

9                         MR. CAVALLUZZO:   Right, and  
10          although obviously organized crime is world-wide,  
11          but when you're dealing with national security  
12          investigations, for the most part, you're going to  
13          be dealing necessarily with foreign agencies all  
14          the time, and that requires, once again, the kind  
15          of coordination that we were talking about before,  
16          before we send out information about Canadians to  
17          foreign agencies; isn't that correct?

18                        MR. FLEWELLING:   Yes.

19                        MR. CAVALLUZZO:   Now, I would like  
20          to deal with the situation post-9/11 -- and we've  
21          talked about the trail from before 9/11, external  
22          agencies, CID, field units, other divisions, other  
23          agencies, back to CID, then out to the external or  
24          foreign agency after you have done the analysing,  
25          coordination, control, and so on -- and ask

1           whether that particular protocol or procedure  
2           changed after 9/11?

3                         MR. FLEWELLING:  Oh, definitely.  
4           It definitely changed our way of operations  
5           because, from our level, our ability to be able to  
6           analyze the information, number one, to the extent  
7           that we want to, was not there.

8                         Secondly our LO in Washington was  
9           impacted with numerous tasks and was not able to  
10          pass on the information in a timely fashion.  
11          Therefore, the decision was made that for a time  
12          period that we could pass that information  
13          directly through the American Embassy.

14                        MR. CAVALLUZZO:  So how that  
15          changed -- and we are going to come to a situation  
16          of resources, and your notes deal with the limited  
17          resources you had early on.

18                        But how that protocol changed was  
19          because of the time factor, your LO in Washington  
20          was clearly overspent in terms of his or her time,  
21          and as a result of that at the end of the day, the  
22          direct agent -- the direct line would be to the  
23          embassy in Washington -- or, excuse me, in Ottawa,  
24          as well as the LO in Washington?

25                        MR. FLEWELLING:  There still would

1           be information that would be passed through our LO  
2           in Washington.

3                       MR. CAVALLUZZO:   Right.

4                       MR. FLEWELLING:   However, due to  
5           the influx in the number of various requests and  
6           so forth, it was just unmanageable.

7                       MR. CAVALLUZZO:   Right.

8                       MR. FLEWELLING:   Therefore, the  
9           decision was made to pass the information straight  
10          through to the American Embassy.

11                      MR. CAVALLUZZO:   And that was to  
12          meet the concerns of time.  Time is of the essence  
13          in this particular atmosphere, and as a result of  
14          that, the information --

15                      MR. FLEWELLING:   Well, nobody  
16          wanted --

17                      MR. CAVALLUZZO:   Listen to the  
18          question.  The information would go to the Embassy  
19          as well as to the LO in Washington.

20                      MR. FLEWELLING:   Yes.

21                      MR. CAVALLUZZO:   And presumably,  
22          obviously, even though it was a timely exchange of  
23          information, the fact was that if it was come  
24          through CID, caveats would be put on the  
25          information if it was required by the policies?



1 MR. FLEWELLING: Yes.

2 MR. CAVALLUZZO: Now, I would like  
3 to move now to your relationship -- or not your,  
4 but the relationship between --

5 THE COMMISSIONER: Just before we  
6 leave that, can I just ask you: Under this new  
7 procedure as you understood it post-9/11, there  
8 was a change in that it would be provided directly  
9 from the operational level, A-OCANADA in this  
10 example, as opposed to being sent to CID for  
11 review and scrutiny.

12 Is that right?

13 MR. FLEWELLING: No, not  
14 necessarily.

15 MR. CAVALLUZZO: I think his  
16 evidence -- let me just rephrase that. His  
17 evidence was the change was that it was still to  
18 go from the division to CID, and the change was  
19 CID could pass the information directly to the  
20 Canadian Embassy -- or the American Embassy in  
21 Ottawa as well as the LO in Washington.

22 MR. FLEWELLING: Yes.

23 MR. CAVALLUZZO: Is that correct?

24 THE COMMISSIONER: I misunderstood  
25 that.

1                   And you indicated that pre-9/11  
2                   the practice was that the information would be  
3                   scrutinized on a need-to-know basis to see if  
4                   there was any personal information that didn't go,  
5                   be scrutinized for relevancy, and so on.

6                   MR. FLEWELLING:   Yes.

7                   THE COMMISSIONER:   That the CID  
8                   would bring judgments to bear in the contents of  
9                   the information.  Did that continue to be the case  
10                  post-9/11?

11                  MR. FLEWELLING:   Post-9/11, for  
12                  the most part of the country, the information  
13                  would come back through CID.  And then the only  
14                  difference would be is that instead of it going  
15                  to, let's say, the LO Washington -- not all  
16                  information went straight to the LO Washington  
17                  because they were impacted.  There was an awful  
18                  lot of information that flowed directly from CID  
19                  straight to the U.S. Embassy.

20                  THE COMMISSIONER:   Right.

21                  MR. FLEWELLING:   And that was  
22                  because of the concern of the threats and so on  
23                  and so forth.

24                  THE COMMISSIONER:   But my question  
25                  is:  Was the scrutiny that took place pre-9/11 for

1           relevance, personal information, need to know and  
2           so on, did that scrutiny still take place?

3                       MR. FLEWELLING:  Yes.  Perhaps not  
4           at the same level as it did previous, but that  
5           scrutiny was there, yes.

6                       THE COMMISSIONER:  Okay.  Thank  
7           you.

8                       MR. CAVALLUZZO:  Coming to the  
9           next topic that I would like to deal with this  
10          afternoon is the relationship between CID and  
11          Project A-OCANADA.  You told us earlier that one  
12          of the directives you received from Mr. Pilgrim,  
13          who was your -- I guess between you and  
14          Mr. Pilgrim there was a supervisor, either O'Neill  
15          or Ron Lauzon, but Pilgrim would be the ultimate  
16          person in the NSOS, or at least responsible for  
17          NSOS.

18                      And his direction was to bring  
19          Project A-OCANADA back to the way things were, as  
20          you put it, before 9/11 as far as the policies --

21                      MR. FLEWELLING:  Just try to bring  
22          back the preexisting policies that were in place.

23                      MR. CAVALLUZZO:  And as far as  
24          that is concerned, that obviously is a very  
25          important responsibility.  Did you have any more

1           responsibilities as being the supervisor for CID,  
2           or the coordinator from CID in respect of Project  
3           A-OCANADA, apart from bringing them back on to  
4           policy? Were there any other responsibilities you  
5           had?

6                           MR. FLEWELLING: That I had at the  
7           time? I would have to go back to the time when  
8           Bill C-36 was in play and all of a sudden there  
9           was a number of new units that were required to be  
10          started.

11                           As a result I know that management  
12          had a great deal of pressure to get them up and  
13          moving in a very quick fashion. Therefore, there  
14          were a number of individuals from my unit that  
15          were taken and utilized to head up those units and  
16          replaced with other individuals from the field.  
17          We also had to send a few off in order to look  
18          after -- or in a secondment role to work with  
19          other agencies in order to increase the awareness  
20          of the RCMP and to facilitate the role of sharing  
21          of information.

22                           As a result, I found myself in a  
23          position where I was mentoring, coaching,  
24          supervising, if you will, a vast majority of major  
25          investigations as well as acting as the

1 coordinator for this project.

2 MR. CAVALLUZZO: Now, I understand  
3 that when you came on to the scene in respect of  
4 your oversight responsibilities relating to  
5 Project A-OCANADA that you were going to bridge  
6 some of the relationship problems that may have  
7 existed up at that point in time? I understand  
8 that before you came on to the scene, that there  
9 were a few problems between A-OCANADA and CID; is  
10 that correct?

11 MR. FLEWELLING: I was the fourth  
12 individual that was asked to oversee the project,  
13 and I was aware that there were a few issues. The  
14 exact nature of those issues, I'm not fully aware  
15 of.

16 However, the two roles that I was  
17 given was to (a) try and look after or give the  
18 awareness of the various policies, and hopefully  
19 to increase or to bridge the gap, as you  
20 mentioned.

21 MR. CAVALLUZZO: Now, as far as  
22 you being the fourth oversight supervisor, we  
23 understand from the evidence that A-OCANADA was  
24 created on October 5th of 2001, and you are moving  
25 over in June of 2002, which in my calculation

1 would be a period of nine months. So being the  
2 fourth oversight supervisor in nine months seems  
3 to be, if not a record, but signifying that there  
4 may be a problem.

5 Is that fair?

6 MR. FLEWELLING: Again, I can't  
7 comment on what some of the issues were  
8 previously, other than to say that when I was  
9 asked to start to move into that role, that that  
10 was instructions I was given by Mr. Pilgrim.

11 MR. CAVALLUZZO: Did you not go to  
12 see the three other oversight supervisors and say,  
13 "Thanks very much. What am I left with? What's  
14 the problem?"

15 MR. FLEWELLING: I can't recall  
16 what a lot of the -- specifically what some of  
17 their issues were.

18 MR. CAVALLUZZO: Right. Well, we  
19 are going to take you through it. And let me tell  
20 you some of the issues that existed with you, and  
21 there are about three or four.

22 One is what I would call keeping  
23 you in the loop. You know what that means; right?

24 MR. FLEWELLING: Yes, definitely.

25 MR. CAVALLUZZO: And that was a

1           problem. Use of caveats. Another problem?

2                           MR. FLEWELLING: We worked through  
3           it.

4                           MR. CAVALLUZZO: You worked  
5           through it. Let's see. Another one was direct  
6           dealings with foreign agencies. Was that a  
7           problem?

8                           MR. FLEWELLING: That was a  
9           negotiation from my understanding that was  
10          preexisting.

11                          MR. CAVALLUZZO: So that was a  
12          preexisting problem which surfaced a couple of  
13          times when you were there?

14                          MR. FLEWELLING: Unfortunately,  
15          that was an arrangement, or an agreement if you  
16          will, that was made with management when the  
17          project started.

18                          MR. CAVALLUZZO: Right. And we  
19          will come back to that just to elucidate what some  
20          of those problems were.

21                          Finally, I want to try to put on  
22          the table the perspective of A-OCANADA in respect  
23          of what some of these problems will be. And as I  
24          say, tomorrow, when we get into your evidence,  
25          we'll deal specifically with each and every one of

1           those problems.

2                               Is it fair to say that one of the  
3           problems, and probably the fundamental problem  
4           which gave rise to some of these relationship  
5           issues, was that A-OCANADA viewed its task force  
6           or Project A-OCANADA to be a criminal  
7           investigation, whereas CID viewed it to be a  
8           national security investigation in light of what  
9           duties and responsibilities the project had.

10                              Is that fair?

11                              MR. FLEWELLING: I think one thing  
12           that we have to make sure that's clear is that a  
13           criminal investigation is a national security  
14           investigation. They are one and the same. It's  
15           just the umbrella they are under and the  
16           sensitivities that go along with it.

17                              MR. CAVALLUZZO: I'm sorry.

18                              MR. FLEWELLING: I was just going  
19           to say that I think, from my perspective, some of  
20           it was just the reporting procedures.

21                              MR. CAVALLUZZO: Right. But is it  
22           fair to say that when someone, a trained  
23           investigator, a seasoned investigator, is  
24           conducting a criminal investigation, that there is  
25           a great deal of autonomy or independence which



1 attaches to that particular investigation  
2 resulting from our legal system, resulting from  
3 our common law?

4 MR. FLEWELLING: In many cases, a  
5 criminal investigation is more localized, yes.

6 MR. CAVALLUZZO: Is that fair?

7 MR. FLEWELLING: Yes.

8 MR. CAVALLUZZO: Okay. Is it also  
9 fair that because of the perhaps different  
10 perspectives which A-OCANADA had as opposed to  
11 CID, that what you were attempting to do was to  
12 get more coordination, more information filtering  
13 through you to ensure that policies were followed;  
14 in other words, to be sensitive to the national  
15 security investigation aspect of it.

16 Isn't that fair?

17 MR. FLEWELLING: I would say  
18 that's fair.

19 MR. CAVALLUZZO: And from  
20 A-OCANADA's perspective, every time CID sought any  
21 kind of intervention, whether it be keep us  
22 informed, use caveats, do this, do that, they  
23 would perhaps perceive that as being an  
24 infringement upon their autonomy as criminal  
25 investigators.

1 Is that fair?

2 MR. FLEWELLING: In part, yes.

3 MR. CAVALLUZZO: What is the other  
4 part?

5 MR. FLEWELLING: I'm just looking  
6 at it from the part that the instructions that  
7 they were given from the "A" Division side of  
8 things, that they were to report strictly through  
9 their CROPS, which ended up causing some of these  
10 issues.

11 MR. CAVALLUZZO: And that's what  
12 would seem to happen -- and we'll take you through  
13 some of that -- and that is that here,  
14 Mr. Flewelling, Corporal Flewelling at the time  
15 from CID would attempt to assert some kind of  
16 coordination or whatever with Project A-OCANADA,  
17 Project A-OCANADA would feel, "Well, that's an  
18 infringement of our autonomy." They would go up  
19 to their CROPS officers and then there would be a  
20 meeting above you between the CROPS officer and  
21 Richard Proulx, who is the head of the CID, and  
22 there would be some kind of resolution.

23 Is that fair?

24 MR. FLEWELLING: Yes. I think  
25 with just about any corporation where they have a

1           headquarters that is coming down to a field unit  
2           that mentions anything, then they all think that  
3           headquarters is just being a royal pain.

4                   MR. CAVALLUZZO:   Right.  And it  
5           would seem from my perspective in analysing all of  
6           this evidence that "A" Division would win most of  
7           the battles with headquarters?

8                   MR. FLEWELLING:  I don't know.  I  
9           didn't keep score.

10                   MR. CAVALLUZZO:  You didn't keep  
11           score.  I know you are not a score-keeper, but you  
12           must have some --

13                   MR. FLEWELLING:  I don't know how  
14           to answer that.

15                   MR. CAVALLUZZO:  Well, you must  
16           have some feeling that they won more than they  
17           lost?

18                   MR. FLEWELLING:  We ended up  
19           rehashing a number of issues time and again.

20                   MR. CAVALLUZZO:  Right.  And  
21           sometimes deals would be made above your head,  
22           indeed above Mr. Pilgrim's head, that you guys  
23           weren't even aware of?

24                   MR. FLEWELLING:  That's fair.

25                   MR. CAVALLUZZO:  Right.  And you

1 would have to go back and deal with whatever. And  
2 we are going to deal with some of those specific  
3 concerns later on in your evidence.

4 It is about five to five and I  
5 want to just complete a couple of other things  
6 before we let you go.

7 MR. FLEWELLING: You have a smile  
8 on your face.

9 MR. CAVALLUZZO: I'm always  
10 smiling.

11 And that is, let us move to the  
12 initial stages of the Arar time line. We  
13 understand that although you became the  
14 oversight -- call it the overseer of Project  
15 A-OCANADA in or about June, and that crystallized  
16 later on, but in January of 2002 was the first  
17 time you had become aware of Mr. Arar.

18 I refer to your notes which now  
19 have been entered as Exhibit 206.

20 THE COMMISSIONER: 211, actually.

21 MR. CAVALLUZZO: Exhibit 211? I'm  
22 sorry, 211.

23 I'm going to be using the page  
24 numbers at the bottom right, which are written in.  
25 So if you go to page 4, we see at the top -- this

1 is the entry for Tuesday, January 22nd of 2002,  
2 and we understand from all of the evidence that a  
3 number of search warrants were executed on this  
4 particular day. We see in respect of that day  
5 that the name Maher Arar is found in the context  
6 presumably of other names on the left and names on  
7 the right, which have been redacted.

8 Now, is this the first occasion  
9 upon which you became aware of this individual by  
10 the name of Maher Arar?

11 MR. FLEWELLING: Yes. Even that  
12 day, I didn't know who it was.

13 MR. CAVALLUZZO: You just wrote  
14 his name down. You didn't know who he was?

15 MR. FLEWELLING: I was asked to  
16 step in that day or fill in for the coordinator of  
17 the day to oversee or just to monitor what  
18 transpired that day.

19 MR. CAVALLUZZO: Right.

20 MR. FLEWELLING: So the names  
21 didn't mean anything.

22 MR. CAVALLUZZO: And so that you  
23 didn't take part in terms of the execution of the  
24 warrants, but you were at some central location  
25 where you performed some coordinating

1           responsibilities.

2                           Is that fair?

3                           MR. FLEWELLING:   That's fair.

4                           MR. CAVALLUZZO:   Okay.  I just  
5           want to clear the record because there's a  
6           statement in the statement you gave to Mr. Garvie  
7           that I just want to ensure that it's clarified.

8                           I would like to introduce -- no,  
9           this is the statement that Mr. Flewelling gave to  
10          Mr. Garvie.  I would like to introduce that as an  
11          exhibit.

12                          THE COMMISSIONER:   221.

13                                  EXHIBIT NO. P-221:   Statement  
14                                  given by Richard Flewelling  
15                                  to Brian Garvie on January  
16                                  22, 2004

17                          MR. CAVALLUZZO:   This is the  
18           statement that you gave Mr. Garvie on January 22nd  
19           of 2004?  Do you recall giving Mr. Garvie that  
20           statement?

21                          MR. FLEWELLING:   Yes.

22                          MR. CAVALLUZZO:   What I would like  
23           you to clarify, if you could, for us at page 2,  
24           and if you look around line 25 to 30, Mr. Garvie  
25           says:

1 "Could you tell me in  
2 chronological sequence what  
3 you had to do with the  
4 monitoring of the incidents  
5 involving Maher Arar."

6 And you said:

7 "During that time frame when  
8 he was incarcerated, I really  
9 didn't know he was  
10 incarcerated until several  
11 days after he was actually  
12 incarcerated. My first  
13 knowledge that I became aware  
14 of the issue of Maher Arar  
15 would have been approximately  
16 August 1st or 2nd."

17 So what I want to clarify with you  
18 is what you meant there -- that's the Arar issue  
19 after he was detained. You had seen the name  
20 before in January in respect of the search  
21 warrants, and that's what you meant by that  
22 statement to Mr. Garvie.

23 Is that fair?

24 MR. FLEWELLING: I would say  
25 that's fair.

1 MR. CAVALLUZZO: In regard to  
2 Project A-OCANADA, we know that -- and we have an  
3 exhibit, Exhibit P-85, tab 24.

4 MR. FLEWELLING: Sorry. That was  
5 tab which?

6 MR. CAVALLUZZO: Twenty-four.  
7 Much of this is redacted, but what this represents  
8 is information, documentation that was shared or  
9 given by Project A-OCANADA to a couple of American  
10 agencies, and basically the entire SUPertext  
11 database was given to the Americans in April of  
12 2002.

13 I am wondering whether you were  
14 aware that the entire SUPertext database of  
15 Project A-OCANADA was given to the Americans in  
16 April of 2002?

17 MR. FLEWELLING: Was I aware at  
18 that time?

19 MR. CAVALLUZZO: Yes.

20 MR. FLEWELLING: No.

21 MR. CAVALLUZZO: When did you  
22 become aware of that?

23 MR. FLEWELLING: Sometime after I  
24 took over the project, I believe. I'm not exactly  
25 sure of the exact date, but I wasn't aware of the



1 actual transaction until later. I guess that's  
2 the best way of putting it. I wouldn't want to  
3 try to put a date to it.

4 MR. CAVALLUZZO: And you would  
5 agree with me that if you refer to it as a  
6 transaction, this transaction was contrary to RCMP  
7 policy?

8 MR. FLEWELLING: Again, I would  
9 have to say and specify that I'm not aware of any,  
10 I guess, arrangement that was made with upper  
11 management or at the "A" Division level.

12 MR. CAVALLUZZO: But you would  
13 agree with me -- well, let's deal with it on a  
14 hypothetical level.

15 If this information was sent  
16 directly to the Americans without going through  
17 CID, that would have been contrary to policy?

18 MR. FLEWELLING: Again, in an  
19 ideal situation, pre-9/11, yes.

20 MR. CAVALLUZZO: And what about  
21 post-9/11?

22 MR. FLEWELLING: Post-9/11?  
23 Again, like I say, the only caveat that I put on  
24 it, if you will, is I'm not aware of any deal or  
25 any negotiated structure, if you will, for the

1 sharing of information based on that.

2 MR. CAVALLUZZO: Right.

3 MR. FLEWELLING: That's why I want  
4 to be cautious with my answer here and be fair.

5 MR. CAVALLUZZO: Just listen to  
6 the question.

7 I know you weren't aware of the  
8 transaction, but if this information went directly  
9 to foreign agencies without going through CID, I  
10 would assume that is not consistent with policy?

11 MR. FLEWELLING: Yes.

12 MR. CAVALLUZZO: If this  
13 information was not processed, analyzed, for  
14 purposes of personal information, need-to-know,  
15 relevancy, national security concerns, that would  
16 not be consistent with policy?

17 MR. FLEWELLING: We are talking  
18 about hypothetically here?

19 MR. CAVALLUZZO: Yes.

20 MR. FLEWELLING: Yes.

21 MR. CAVALLUZZO: If this  
22 information went to foreign agencies without  
23 caveats, that would be contrary to policy?

24 MR. FLEWELLING: Yes. Bearing in  
25 mind there is that implied caveat.

1 MR. CAVALLUZZO: Yes, I understand  
2 the implied caveat.

3 And the final question I have: If  
4 this information went, which contained information  
5 from other agencies that had given the RCMP  
6 information with caveats, if this information went  
7 without getting the consent of these other  
8 agencies, that would be contrary to policy?

9 MR. FLEWELLING: Yes.

10 MR. CAVALLUZZO: Thank you.

11 MR. FOTHERGILL: Commissioner,  
12 this might be a good time for me to acknowledge an  
13 error that I made during the testimony of Deputy  
14 Commissioner Loepky. I think I advised you and  
15 the participants that Mr. Flewelling had been  
16 present during the January 31st stakeholders'  
17 meeting when the prospect of sharing search  
18 results with American agencies was raised, and it  
19 has since been brought to my attention that I was  
20 wrong in that. It was one of Mr. Flewelling's  
21 predecessors but not him.

22 THE COMMISSIONER: Thank you,  
23 Mr. Fothergill.

24 MR. CAVALLUZZO: How are you  
25 feeling, Mr. Flewelling? Do you want to go on for

1 a bit, because the more we accomplish today -- how  
2 about if we go for another half an hour? Is that  
3 fair?

4 Does anyone have time concerns?

5 THE COMMISSIONER: Any problems if  
6 we do a half an hour more?

7 MR. CAVALLUZZO: Okay. Let's move  
8 on then.

9 THE COMMISSIONER: No hands shot  
10 up. Okay. Carry on.

11 MR. CAVALLUZZO: You can set that  
12 book aside, Mr. Flewelling, and we are going to  
13 move on to something else now.

14 I want to deal now, if we can call  
15 it, some of the communication issues between  
16 A-OCANADA and CID, and let's look at your notes  
17 once again, Exhibit 211.

18 I would like to start at the back.  
19 If we can look at page 66, the date for this is  
20 November 22nd of 2001. I understand that this was  
21 a video conference.

22 Is that correct?

23 MR. FLEWELLING: I believe so.

24 MR. CAVALLUZZO: If you can just  
25 help us, could you read the first eight lines

1           there?

2                           MR. FLEWELLING:   It says:

3                                   "The investigation is an NSIB  
4                                   investigation and not a  
5                                   [blank] A-OCANADA  
6                                   investigation."

7                           MR. CAVALLUZZO:   Now, just  
8           stopping there, once again we are distinguishing.  
9           We are saying this is an NSIB investigation as  
10          opposed to an A-OCANADA investigation or an  
11          OCanada investigation.

12                                  And what was the point being made  
13          by -- and do you know who was speaking during this  
14          video conference that would have been giving these  
15          kinds of directions?

16                                  MR. FLEWELLING:   I would be making  
17          an assumption as to who was speaking but --

18                                  MR. CAVALLUZZO:   Who do you think?

19                                  MR. FLEWELLING:   I'm assuming that  
20          it was Superintendent Pilgrim.

21                                  MR. CAVALLUZZO:   What was your  
22          understanding as to what Superintendent Pilgrim  
23          meant by saying it's an NSIB investigation?

24                                  MR. FLEWELLING:   It's a national  
25          security investigation.

1 MR. CAVALLUZZO: Okay. If you can  
2 go on now to the third line?

3 MR. FLEWELLING: It says:  
4 "It is imperative that they  
5 begin to advise and inform HQ  
6 of their information."

7 MR. CAVALLUZZO: And this  
8 obviously, it is imperative that the divisions  
9 keep, if we can call it, headquarters in the loop.

10 MR. FLEWELLING: Yes.

11 MR. CAVALLUZZO: Okay. If you can  
12 go on then?

13 MR. FLEWELLING: It says:  
14 "Coordinating divisions with  
15 a national perspective from  
16 an investigation point of  
17 view."

18 I really don't know what I'm  
19 saying or meaning there.

20 MR. CAVALLUZZO: Right. But you  
21 know what the next line means? Why don't you read  
22 that?

23 MR. FLEWELLING: "We have to be  
24 better kept in the loop."

25 MR. CAVALLUZZO: Then if you go

1 two or three lines below the redaction on that  
2 page?

3 MR. FLEWELLING: Yes.

4 MR. CAVALLUZZO: What does it say?

5 MR. FLEWELLING: "Coordination  
6 between divisions and units  
7 within a division is a  
8 problem because of ..."

9 MR. CAVALLUZZO: That looks like  
10 "medium."

11 MR. FLEWELLING: "... medium of  
12 security issues resulting  
13 from the use of SCIS."

14 MR. CAVALLUZZO: SCIS, as we've  
15 heard --

16 MR. FLEWELLING: SCIS is the  
17 national security information system where all  
18 national security information is stored.

19 MR. CAVALLUZZO: Then if you go to  
20 page 68 and just read from the top of that page?

21 MR. FLEWELLING: It says:

22 "We give you everything."

23 I don't know. There's something  
24 there.

25 "So we don't look foolish."

1                   We need to exchange  
2                   information --"

3                   Sorry, I can't read it.

4                   MR. CAVALLUZZO:   Something about  
5                   "necessary"?

6                   MR. FLEWELLING:   Yes.   That's what  
7                   it looks like.

8                   MR. CAVALLUZZO:   Okay.   Then it  
9                   goes on, "A-OCANADA."   Can you just read that?

10                  MR. FLEWELLING:   It says:

11                                "Treat the document like a  
12                                murder and review the  
13                                information and come up with  
14                                a new list of questions."

15                  I have no idea what that's about.

16                  MR. CAVALLUZZO:   It says "treat  
17                  the document like a murder".   Does that mean you  
18                  are treating the investigation as a criminal  
19                  investigation as opposed to a national security  
20                  investigation --

21                  MR. FLEWELLING:   Obviously  
22                  somebody is expressing a view somewhere.   I wrote  
23                  it down.   Unfortunately I don't know what it  
24                  means.   I don't recall.

25                  MR. CAVALLUZZO:   Then if you go



1 finally to the next page, page 69, at November 22,  
2 2001?

3 MR. FLEWELLING:

4 "Lack of the use of SCIS,  
5 lack of sharing information  
6 within, lack of knowledge in  
7 the intelligence field."

8 MR. CAVALLUZZO: Okay. And that  
9 latter one -- we know what the other means. But  
10 the latter one, "lack of knowledge in the  
11 intelligence field", is this what you were talking  
12 about before, that because of the crush of 9/11,  
13 many investigators were being brought into these  
14 kinds of investigations and lacked knowledge in  
15 the intelligence field?

16 MR. FLEWELLING: I think the  
17 message there was to try and ensure the divisions  
18 were bringing their people, or advising them as to  
19 the policy and the need to get the information on  
20 to SCIS, and to notify headquarters quicker with  
21 respect to the various investigations that were  
22 ongoing.

23 MR. CAVALLUZZO: So that was in  
24 November of 2001. If we can now move into 2002  
25 and pick up at page 5 for April 12th of 2002.

1                   What I'm referring to is the  
2           last two lines.  Could you read those lines for  
3           us, please?

4                   MR. FLEWELLING:  "Lack of  
5                                   communication between  
6                                   A-OCANADA and HQ and NSOS and  
7                                   two vacancies and stress for  
8                                   NSOS."

9                   MR. CAVALLUZZO:  So this lack of  
10           communication between A-OCANADA and headquarters,  
11           this was before you became the overseer, but did  
12           you have any idea of what was being referred to  
13           there?

14                   MR. FLEWELLING:  No.  This was a  
15           unit meeting where obviously there is a point that  
16           was made by one of the other individuals.

17                   MR. CAVALLUZZO:  Okay.  And where  
18           it says "stress for NSOS", does that mean that the  
19           bulk of the work is creating stress because of the  
20           resources that you had?

21                   MR. FLEWELLING:  I think that  
22           comment alludes to, yes, the increase in workload  
23           within NSOS.

24                   MR. CAVALLUZZO:  If we could move  
25           on then in terms of time, if you go to page 14,

1 this is the entry for June 10th of 2002.

2 This is when, I guess, you are  
3 becoming the overseer of Project A-OCANADA, and  
4 I'm wondering if you could read the entry for  
5 2030?

6 MR. FLEWELLING: 2030?

7 MR. CAVALLUZZO: Yes.

8 MR. FLEWELLING: Continue with the  
9 briefing note?

10 MR. CAVALLUZZO: That's the one.

11 MR. FLEWELLING: Okay.

12 "2130 hours. Wrote Glenn an  
13 e-mail with respect --"

14 MR. CAVALLUZZO: First of all,  
15 Glenn is Glen MacDougall?

16 MR. FLEWELLING: Inspector Glenn  
17 MacDougall.

18 MR. CAVALLUZZO: And you reported  
19 to Glenn?

20 MR. FLEWELLING: Glenn would be in  
21 between the sergeant's position and Superintendent  
22 Pilgrim.

23 MR. CAVALLUZZO: So you wrote to  
24 Glenn MacDougall. If you could go on?

25 MR. FLEWELLING: "... with respect

1 to today's meeting at  
2 A-OCANADA office. I informed  
3 him of the lack of  
4 communication and lack of  
5 professionalism. I further  
6 informed him that I cannot do  
7 my job effectively under the  
8 present situation. I further  
9 stated that their inability  
10 to provide me with the  
11 appropriate approval prior to  
12 the aircraft taking off for  
13 Washington makes me and HQ  
14 look unprofessional."

15 MR. CAVALLUZZO: This lack of  
16 communication and lack of professionalism, what  
17 are you referring to there?

18 MR. FLEWELLING: I think the  
19 communication was with respect to a meeting that  
20 was held and they failed to let me know that there  
21 was going to be a meeting that day.

22 MR. CAVALLUZZO: This is A-OCANADA  
23 had an investigators' meeting?

24 MR. FLEWELLING: Yes.

25 MR. CAVALLUZZO: Failed to let you

1 know?

2 MR. FLEWELLING: Yes.

3 MR. CAVALLUZZO: Is that correct?

4 And you had a prior arrangement that they would

5 let you know of these meetings?

6 MR. FLEWELLING: Yes.

7 MR. CAVALLUZZO: And they didn't

8 let you know?

9 MR. FLEWELLING: No. I mean,  
10 there's two messages I'm making in this one.

11 MR. CAVALLUZZO: Okay. What's the  
12 second message?

13 MR. FLEWELLING: Unfortunately I  
14 was a little frustrated at the time and probably  
15 overly harsh. However, the other issue was that  
16 there was an arrangement to fly to Washington, as  
17 the statement states, and I had my bags packed and  
18 ready to go. Unfortunately --

19 MR. CAVALLUZZO: It sounds like a  
20 folk song by Gordon Lightfoot. I understand you  
21 didn't make it, like him?

22 MR. FLEWELLING: No. Nor can I  
23 sing as well as him.

24 Unfortunately, I was told to stand  
25 by until I got the authorization from

1 Superintendent Pilgrim as well as Inspector Glenn  
2 MacDougall. However it didn't get to me until  
3 after the plane took off.

4 MR. CAVALLUZZO: You concern was  
5 with head office because A-OCANADA had said,  
6 "Listen, we're going to Washington tomorrow.  
7 We've got a seat available for you on the RCMP  
8 plane." You had your bags packed and ready to go  
9 and unfortunately head office didn't get you the  
10 approval prior to the plane taking off.

11 MR. FLEWELLING: That's correct.

12 MR. CAVALLUZZO: And that  
13 frustrated you?

14 MR. FLEWELLING: Yes.

15 MR. CAVALLUZZO: So that your  
16 complaint was with head office there, not with  
17 A-OCANADA?

18 MR. FLEWELLING: No, on that  
19 score.

20 MR. CAVALLUZZO: Is that fair?

21 MR. FLEWELLING: That's fair.

22 MR. CAVALLUZZO: Okay. If we go  
23 to page 15 of your notes for the next day,  
24 Tuesday, June 11, could you read the entry for  
25 1500 hours?

1 MR. FLEWELLING: "Provided  
2 briefing note to Glenn  
3 MacDougall. We spoke about  
4 the issue I raised last  
5 evening. Glenn spoke to Mike  
6 Cabana about this this  
7 morning. Basically nothing  
8 is going to happen."

9 MR. CAVALLUZZO: What does that  
10 mean, "basically nothing is going to happen"?

11 MR. FLEWELLING: Just from the  
12 manner upon which the discussion took place, I  
13 didn't feel that Inspector MacDougall was going to  
14 pursue or deal with the issue.

15 MR. CAVALLUZZO: So that must have  
16 caused a wee bit of frustration in terms of you  
17 performing your job an overseer?

18 MR. FLEWELLING: Well, at that  
19 point I decided I would go and discuss the issue  
20 with Mr. Cabana himself.

21 MR. CAVALLUZZO: Okay. And did  
22 you do that?

23 MR. FLEWELLING: I did.

24 MR. CAVALLUZZO: And when did you  
25 do that?

1 MR. FLEWELLING: I believe it was  
2 on June the 18th.

3 MR. CAVALLUZZO: Then let's go to  
4 your notes for June the 18th. I think it's at  
5 page 17.

6 MR. FLEWELLING: That's correct.

7 MR. CAVALLUZZO: It looks like  
8 something, Project A-OCANADA. Is that it?

9 MR. FLEWELLING: That's it.

10 MR. CAVALLUZZO: Why don't you  
11 read that?

12 MR. FLEWELLING: "Following  
13 meeting I spoke with  
14 Inspector Mike Cabana. I  
15 spoke to him about this  
16 meeting of the 10th of June  
17 where I was not invited. I  
18 informed him that I was not  
19 impressed and that it put me  
20 in a position where I have  
21 difficulties. More  
22 importantly, I was more  
23 disappointed with my own  
24 unit."

25 MR. CAVALLUZZO: Okay. And was



1           that particular problem resolved at that point in  
2           time?

3                           MR. FLEWELLING:   We sat down.   We  
4           had a very amicable discussion, and we both agreed  
5           that the best thing for us to do was to put the  
6           train back on the tracks and let's do everything  
7           we can do get things moving.

8                           MR. CAVALLUZZO:   If you go to the  
9           previous page, at page 16, this is for, I guess,  
10          Tuesday, June 18th.   At the 7:30 entry it says:

11   "Commenced shift.   Began  
12   reading SITREPs for Project  
13   A-OCANADA."

14                           MR. FLEWELLING:   Sorry, what page  
15          was that again?

16                           MR. CAVALLUZZO:   This is page 16,  
17          the previous page.   The very top entry, your shift  
18          commenced.

19   "Began reading SITREPs for  
20   Project A-OCANADA."

21                           At this point in time did you  
22          notice anything as to whether A-OCANADA was  
23          putting the third party rule on their SITREPs?

24                           MR. FLEWELLING:   Right now I don't  
25          recall.

1 MR. CAVALLUZZO: Did you recall at  
2 any time that you advised A-OCANADA that they  
3 should be putting caveats on their situation  
4 reports?

5 MR. FLEWELLING: Yes.

6 MR. CAVALLUZZO: When did you give  
7 that advice?

8 MR. FLEWELLING: I really don't  
9 recall the exact date, but I know that I had  
10 discussions with them that caveats should be  
11 placed. Subsequently, caveats were being placed  
12 on these SITREPs.

13 MR. CAVALLUZZO: If we can move on  
14 in terms of time to page 19 of your notes, this is  
15 now the entry for June 19 of 2002. Could you read  
16 your entry for 8:00 and 8:30?

17 MR. FLEWELLING: "Commenced shift.  
18 Spoke to Ron about our  
19 situation and our inability  
20 to cope with the amount of  
21 work being expected of us."

22 MR. CAVALLUZZO: Okay. If you  
23 could go on?

24 MR. FLEWELLING: I think it's:  
25 "Entered meeting with NSOS to

1 discuss issues as they relate  
2 to NSOS. Situations began to  
3 surface that affected our  
4 unit, workload and capacity.  
5 Wayne stated that the buck  
6 ended with him, provided we  
7 prioritize properly and do  
8 everything in our power to  
9 cope."

10 MR. CAVALLUZZO: Okay. This is a  
11 meeting in which you are raising the resource  
12 issue which you referred to earlier. And the  
13 first line there, where you say "spoke to Ron",  
14 this is Ron Lauzon who became your supervisor  
15 around this time?

16 MR. FLEWELLING: Yes.

17 MR. CAVALLUZZO: And when  
18 reference is made to Wayne saying that the buck  
19 stops here, that's Wayne Pilgrim?

20 MR. FLEWELLING: Yes. It's  
21 approximately the time where we're starting to  
22 develop these new units and these resources are  
23 being pulled out of -- or the experienced members  
24 are being pulled out of NSOS and being replaced.  
25 It was all in and around this time.

1 MR. CAVALLUZZO: If we can move on  
2 now through the summer, indeed let us go to  
3 August. Let's go to page 26. This is the entry  
4 for, I believe it's August -- the previous page,  
5 at 25, is August 13th.

6 In any event, do you see about  
7 halfway down page 26, it says:

8 "Advised by [somebody] that  
9 DFAIT --"

10 Do you see that?

11 MR. FLEWELLING: Yes.

12 MR. CAVALLUZZO: Can you read that  
13 for us, please?

14 MR. FLEWELLING: "Advised by ...  
15 that DFAIT officials in Egypt  
16 have seen El Maati. They  
17 advised us of his present  
18 condition and claims about  
19 his treatment while in Syrian  
20 custody."

21 MR. CAVALLUZZO: And then the next  
22 line?

23 MR. FLEWELLING: "Received fax  
24 from ... re DFAIT report."

25 MR. CAVALLUZZO: And did you see

1 the DFAIT consular report which we introduced as  
2 an exhibit in these proceedings, that was dated  
3 August the 12th of 2002?

4 MR. FLEWELLING: I don't recall.

5 MR. CAVALLUZZO: Do you recall  
6 that, in this particular report, Mr. El Maati had  
7 alleged that he had been tortured while he was in  
8 Syrian custody?

9 MR. FLEWELLING: No, I don't  
10 recall that.

11 MR. CAVALLUZZO: You don't recall  
12 that at all?

13 MR. FLEWELLING: No.

14 MR. CAVALLUZZO: Do you recall --  
15 well then, let us go on.

16 If you go to the next page, at  
17 page 27, there is the entry for August 14th of  
18 2002. At the entry at 9:00 it says:

19 "Meetings tomorrow 10:30 'A'  
20 Division with DOJ, DFAIT,  
21 CSIS and PCO, 'A' Division CO  
22 boardroom."

23 Now, that meeting I understand  
24 related to the El Maati allegations. Is that  
25 correct?

1 MR. FLEWELLING: It could be. I  
2 just don't recall.

3 MR. CAVALLUZZO: You don't recall?

4 MR. FLEWELLING: No.

5 MR. CAVALLUZZO: Then let's go to  
6 the next page. August 15th, at page 28, the entry  
7 for -- it looks like 2030. Do you see that?

8 MR. FLEWELLING: Yes.

9 MR. CAVALLUZZO: Okay. And that  
10 says:

11 "Meeting with PCO, DFAIT,  
12 CSIS, RCMP."

13 And then it says "Myra". And  
14 we've heard evidence from Myra Pastyr-Lupul,  
15 Consular Affairs, DFAIT, August 4th.

16 "DFAIT was advised that El  
17 Maati was in custody in  
18 Egypt. The family has been  
19 advised through --"

20 I guess that's "through the  
21 sister".

22 MR. FLEWELLING: Sister.

23 MR. CAVALLUZZO: "El Maati's  
24 parents are in Indonesia.

25 Uncle in Cairo has contacted

1 the [something]."

2 The next page, unfortunately, we  
3 do not have.

4 Now, we have heard evidence that  
5 there was a meeting on this day where a number of  
6 divisions of the Canadian government got together  
7 to come up with media lines relating to the  
8 allegations made by Mr. El Maati.

9 Do you recall being at that  
10 meeting, and indeed these are the notes that you  
11 took relating to that meeting?

12 MR. FLEWELLING: Obviously I must  
13 have been there because I took the notes, but  
14 honestly, I just don't recall anything that  
15 transpired during that meeting other than what  
16 I've taken down here.

17 MR. CAVALLUZZO: We are moving now  
18 to when Mr. Arar gets detained in New York on  
19 September the 26th, and this is about a month and  
20 a half before, and I just want to be sure.

21 You recall the meeting. But do  
22 you not recall that Mr. El Maati had made  
23 allegations that he was tortured while he was in  
24 detention in Syria earlier in that year of 2002?

25 --- Pause

1 MR. FLEWELLING: I'm not going to  
2 say I didn't, but I just don't recall.

3 MR. CAVALLUZZO: Isn't that  
4 something that you would remember, allegations of  
5 torture in Syria, a Canadian?

6 MR. FLEWELLING: I know that there  
7 was the meeting. But unfortunately, I'm sorry, I  
8 just --

9 MR. CAVALLUZZO: You don't recall.

10 MR. FLEWELLING: I don't recall.  
11 I didn't recall at that time that that had  
12 transpired.

13 MR. CAVALLUZZO: Okay. Then a  
14 couple of final questions.

15 If we go to the next page, this is  
16 the entry for August 20th of 2002, and I would  
17 like you to read for us the entry if we can start  
18 six lines from the bottom, just after that  
19 redaction?

20 MR. FLEWELLING: "... called to  
21 advise the fax in my --"

22 MR. CAVALLUZZO: That says  
23 "Somebody called to advise." Now, is that  
24 "somebody" somebody in Project A-OCANADA?  
25 --- Pause



1 MR. FLEWELLING: I believe so.

2 MR. CAVALLUZZO: I will speak to  
3 my friend, but for tomorrow, hopefully we will  
4 give you the name of that individual,  
5 Mr. Commissioner.

6 THE COMMISSIONER: Okay.

7 MR. CAVALLUZZO: If you can say  
8 "Somebody in A-OCANADA called", and could you pick  
9 that up then, Mr. Flewelling?

10 MR. FLEWELLING: "... called to  
11 advise a fax in my name was  
12 en route. He also advised  
13 that Mike Cabana still wants  
14 to invite the Syrians to  
15 review what Project A-OCANADA  
16 has on and provide them --"  
17 Sorry, the line is...

18 MR. CAVALLUZZO: "Provide them"  
19 and it goes on to the next page?

20 MR. FLEWELLING: It's the top line  
21 that I ...

22 MR. CAVALLUZZO: Right. Well, it  
23 looks like, "with a series of questions they want  
24 the Syrians to ask ..."

25 MR. FLEWELLING: "On our behalf".

1 MR. CAVALLUZZO: "On our behalf".

2 Right.

3 MR. FLEWELLING: Yes.

4 MR. CAVALLUZZO: This is like a  
5 week after there are allegations -- or at least  
6 the evidence is there are allegations that Mr. El  
7 Maati has made that he has been tortured in Syria,  
8 and you are getting information here that somebody  
9 in A-OCANADA calls to advise you that Cabana still  
10 wants the Syrians to review what Project A-OCANADA  
11 has and then provide them with questions for them  
12 to ask.

13 You may not recall the torture,  
14 but did that concern you when Mr. Cabana, a week  
15 after the El Maati meeting, is wanting to share  
16 this information with the Syrians and indeed send  
17 a series of questions for them to ask of somebody,  
18 whose name is redacted here -- we have an idea who  
19 it is.

20 But did that concern you when you  
21 saw this or when you got this information?

22 MR. FLEWELLING: I would like to  
23 deal with that from a policy perspective, in that  
24 normally when you are going to be dealing with a  
25 foreign agency, or sending information, the normal

1 course or the most prudent course would be to pass  
2 that information through CID, engage CID, as well  
3 as other agencies, such as our DOJ, Justice,  
4 Solicitor General, and DFAIT, to solicit their  
5 input, their advice, prior to that decision being  
6 made, if you will.

7 MR. CAVALLUZZO: Right.

8 MR. FLEWELLING: And then once  
9 that decision has been made, that information  
10 would be shared, with the instructions. It would  
11 go to the LO of the area, and the final step is  
12 that the head of station would have the final say.  
13 So there is a check and balance in play.

14 MR. CAVALLUZZO: What did you do  
15 when you received this information from this  
16 individual at A-OCANADA, that this was being  
17 contemplated? Did you say, "Don't do it"?

18 MR. FLEWELLING: I advised that  
19 the only person that could do that would be  
20 the y-- that has the power to either invite  
21 somebody to show up or to go, would be the  
22 Commissioner.

23 MR. CAVALLUZZO: Of the RCMP?

24 MR. FLEWELLING: Of the RCMP.

25 MR. CAVALLUZZO: Okay. And you

1 gave that information back to this individual?

2 MR. FLEWELLING: That's correct.

3 MR. CAVALLUZZO: And presumably,  
4 at least at this point in time, that ended that  
5 endeavour, do you know, at this point in time?

6 MR. FLEWELLING: I believe so.

7 MR. CAVALLUZZO: Okay.

8 Mr. Commissioner, that brings us  
9 to September the 26th, when Mr. Arar is detained,  
10 and this might be an appropriate time to break for  
11 the day.

12 THE COMMISSIONER: All right. We  
13 will rise until nine o'clock tomorrow morning.

14 THE REGISTRAR: Please stand.

15 --- Whereupon the hearing adjourned at 5:28 p.m.,  
16 to resume on Tuesday, August 23, 2005,  
17 at 9:00 a.m. / L'audience est ajournée à  
18 17 h 28, pour reprendre le mardi 23 août 2005  
19 à 9 h 00

20

21

22

23

24

25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15

Lynda Johansson,  
C.S.R., R.P.R.