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 jeudi 19 mai 2005

Held at:

Algonquin Room
Old City Hall
111 Sussex Drive
Ottawa, Ontario

Thursday, May 19, 2005

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TABLE OF CONTENTS / TABLE DES MATIÈRES

	Page
SWORN: Nancy Collins	2986
Examination by Mr. David	2987
Examination by Mr. Waldman	3124
Examination by Mr. Baxter	3230
Examination by Mr. David	3236

LIST OF EXHIBITS / PIÈCES JUSTICATIVES

No.	Description	Page
P-81	Curriculum vitae of Nancy Collins	2987
P-82	Personal notes of Nancy Collins	3010

Ottawa, Ontario / Ottawa (Ontario)

--- Upon commencing on Thursday, May 19, 2005 at 9:34 a.m. / L'audience débute le jeudi 19 mai 2005 à 09 h 34

THE REGISTRAR: Please be seated. Veuillez-vous asseoir.

THE COMMISSIONER: Good morning.

MR. DAVID: Good morning, Mr. Commissioner.

We have Nancy Collins with us this morning. Ms Collins is with DFAIT and was a collaborator of Maureen Girvan -- collaborator in the sense that Ms Collins works out of the Ottawa JPO office, and so we will have the Ottawa pendant of the Girvan testimony.

Could we swear in Ms Collins?

THE COMMISSIONER: Do you wish to be sworn, Ms Collins?

MS COLLINS: Yes.

SWORN: NANCY COLLINS

THE COMMISSIONER: And your full name?

MS COLLINS: Nancy Collins.

THE COMMISSIONER: Thank you. You may be seated.

MR. DAVID: As I was saying, Ms Collins was desk officer for the United States with DFAIT headquarters here in Ottawa.

If we could file Ms Collins' CV at this point, I would appreciate it.

THE COMMISSIONER: P-81.

MR. DAVID: Thank you.

EXHIBIT NO. P-81: Curriculum Vitae of Nancy Collins

EXAMINATION

MR. DAVID: Ms Collins, I would like to review a few highlights of your CV with you.

First of all, you have been in the employ of DFAIT since what year?

MS COLLINS: Exactly Foreign Affairs, since 1999.

MR. DAVID: Since 1999. I see that you have overseas experience with the Canadian government going back to July of 1996?

MS COLLINS: That is correct.

MR. DAVID: You are presently a Case Management Officer within the headquarters office of the Department of Foreign Affairs, and your particular task is with regard to the United

States?

MS COLLINS: That is correct.

MR. DAVID: This is a position, Ms Collins, that you have occupied since November of 2001?

MS COLLINS: Yes.

MR. DAVID: So during the relevant period that we are concerned with, what we call the Arar chronology, you were in fact in the same position?

MS COLLINS: Yes, I was.

MR. DAVID: And previous to occupying that position of desk officer or case management officer, you were involved with the emergency operations department of the Department of Foreign Affairs in Ottawa?

MS COLLINS: Yes, I was.

MR. DAVID: Which is what we have referred to in the past on the organization chart as JPE?

MS COLLINS: Yes.

MR. DAVID: And just to situate us, Ms Collins, Ms Helen Harris was the director --

MS COLLINS: At that time, she

was.

MR. DAVID: At that time, okay. And this is a position that you occupied from August 1999 to November of 2001?

MS COLLINS: Yes.

MR. DAVID: Previous to that, you were posted with the Department of Foreign Affairs in China?

MS COLLINS: I was not. I was a spouse.

MR. DAVID: Okay.

MS COLLINS: And I was employed at the embassy.

MR. DAVID: I understand.

Just coming back in terms of your responsibilities as case management officer for the United States, your CV provides quite a bit of detail, and I would just like to review that with you.

MS COLLINS: Yes.

MR. DAVID: In fact of the five bullets that are listed, there are maybe three I would like to spend some time with you on, and that's to describe the work you do as a case management officer.

The first bullet refers to the fact that you manage requests for emergency assistance for Canadians arrested in the United States and abroad. That you deal with various situations, such as extradition, death penalties, deportation, immigration issues, terrorism, and matters concerning the Vienna Convention of consular relations.

So if you could just maybe add the real-life realities of this description.

MS COLLINS: Sure. We have currently about 1,700 active cases of arrest or detentions in the United States. Throughout the year we probably have in the norm of 2,500 to 3,000 cases, but all given time I have as a case management officer in the United States 1,700 active cases.

We also deal with extradition because we have people who are in Canada who are going to be extradited into the United States who will become an arrest and detention case to us.

We also have Canadian citizens and other people who are also arrested in the United States who actually are pending an extradition back to Canada.

As for the death penalties, we have dealt with various -- actually not various but a few cases. We have now one Canadian that is under the death penalty in the United States at the present. So we have worked on two other cases in order to assist with the attorneys to avoid the death penalty.

Immigration/deportation -- anybody who has committed an offence in the United States are deemed deportable. We also have people that have acquired -- sorry, have entered the United States illegally or have overstayed their stay where they will face a deportation, and that's the deportation.

Immigration issues is anyone who has -- at the time back in 2001, we were dealing with the National Security Entry Exit Registration, which is the NSEERS. We also work with immigration issues with people who are having difficulties in renewing their green cards or other cases.

Terrorism, I think that's a fairly new one since post-9/11, where we had to deal with a couple of -- well, a few cases where people were arrested for alleged terrorism activities or

suspected terror activities or are being charged with activities.

MR. DAVID: As you know, with Ms Girvan we have covered the cases of Mr. X and Mr. Y, and I understand that you are quite familiar with those two scenarios.

MS COLLINS: At the time I was working on the cases.

MR. DAVID: And you would be in a position to give us some description, some detail, about the chronology of those.

MS COLLINS: Some general context, yes.

MR. DAVID: We will come back to that.

The third bullet on your CV concerning again your position as case management officer, refers to the fact that you:

> "alert and work with federal Canadian authorities"

And you give as an example Canadian Citizenship and Immigration as well as the Canadian Border Services Agency, what we call CBSA:

> "... in conjunction with

relevant authorities of foreign countries to resolve cases with respect for Canadian interests and rights."

Perhaps you could give us a more detailed appreciation of that function.

MS COLLINS: Yes. Number one and foremost is that when a person is arrested in the United States -- I will just talk about the United States, but we also try to identify and verify the Canadian citizenship of the individual. So we work with Citizenship and Immigration if they are a landed immigrant or if they were a naturalized citizen. And we also work with vital statistics to get confirmation of the Canadian citizenship, because it's going to be important for us on two aspects. One is if the offender wants to apply for a treaty transfer of offenders, or in the eventuality that they will be deported to Canada.

So we do work with these organizations and also with the border so that we facilitate travel back to Canada.

As you know, a Canadian has a right of entry. When a person is normally

arrested and is deported, they don't necessarily have the documentations to return to Canada. Therefore, we try to facilitate their entry back into Canada.

MR. DAVID: All right; thank you.

My final reference would be to the fifth bullet on your CV, concerning again your function as case management officer, and it describes that you:

> "... provide staff at Canadian missions with expert advice to enhance their performance and adherence to corporate policies, recommend courses of action to senior DFAIT authorities up to the Minister, the Prime Minister, MPs and other Ministers of the Crown concerned with distressed Canadians."

Could you provide us with an appreciation of that function?

MS COLLINS: Sure. In the United States we have one embassy and we have 12 consulates, that are divided into consulate

generals and also consulates. So when a person at the mission needs an advice on what to do, or they have a case that they are not sure on how to proceed, they will come to me and ask for my advice.

We go within the context of the MCI, which is the Manual of Consular Instructions, and also with the legal, because we do have at headquarters a little bit more, I guess, easy reference to speak with our legal.

So they will come to me and ask me, "What should I do? Give me some advice." And what I do is, if I cannot answer, I will seek the advice and get back to them.

As for the recommended courses of action for senior officials, if I value that a case is going to be a high-profile case or a sensitive case or a case that needs to be brought up to the attention of senior officials, then it is my responsibility to ensure that the Minister, the Parliamentary Secretary, our directors, and everybody that needs to know, are informed.

MR. DAVID: The final reference I would like to make to your CV is the fact that in 1998 you followed what is called the Consular

Programs Officer's Course?

MS COLLINS: Yes.

MR. DAVID: Which is essentially a training program, I understand, for consular officers, for the position of consular officers?

MS COLLINS: Yes, that's correct.

MR. DAVID: Could you describe the course, its duration, and briefly cover the contents of this course and the purpose it serves.

MS COLLINS: Sure. I believe the course was one-week long. We touched all aspects of the consular mandates and services. That deals with medical repatriation, passports, arrest detention, wellbeing/whereabouts, assistance, lost communications. And that gave an overview of what is required of us and what can we do to assist the individual in time of crisis.

MR. DAVID: All right.

I would like to refer you to the organization chart and in fact it's to a very specific reference, just to situate your office, Ms Collins.

That would be Exhibit P-51. I believe it's the third page of that exhibit that situates your office.

If you go to page 3, it's the Case Management JPO organization chart, and I believe your name appears in the second column, the third box down, at the bottom of the page --

MS COLLINS: Yes.

MR. DAVID: You see that? Okay.

So we have your name that appears as a Case Management Officer?

MS COLLINS: Yes.

MR. DAVID: And we also have Myra Pastyr-Lupul, whose name also appears as a Case Management Officer, underneath you?

MS COLLINS: Yes.

MR. DAVID: And your immediate superior was John Carisse at the relevant time?

MS COLLINS: Yes, it was.

MR. DAVID: And Mr. Carisse was replaced in his function by Mr. Dave Dyet?

MS COLLINS: Yes. No. Mr. Carisse was replaced by Dave Dyet.

MR. DAVID: Yes.

MS COLLINS: Sorry, yes.

MR. DAVID: That was in 2003, I believe, that that replacement took place?

And in effect the director of the

JPO is Mr. Gar Pardy?

MS COLLINS: The director of -- the Director General of JPO. He is the Director General of all consular programs.

MR. DAVID: So you report to John Carisse and to Gar Pardy?

MS COLLINS: Yes.

MR. DAVID: In terms of being a desk officer here in Ottawa for DFAIT, you were responsible for our relevant time period for the United States.

Were you the only officer to play that role?

MS COLLINS: At that time I was, yes.

MR. DAVID: And since that time, has the situation changed?

MS COLLINS: Since July 2003, I now have Mr. Lindsay Highsler(ph), who has now undertaken certain functions of responsibilities within the United States.

MR. DAVID: So in effect there are now two people that are handling your function for the United States?

MS COLLINS: Yes. We have

separated a couple of the functions.

MR. DAVID: What did that bring out -- is that because of the workload?

MS COLLINS: The workload is extremely demanding, yes.

MR. DAVID: And is it fair to say that the United States is probably the country that provides the most work in terms of JPO?

MS COLLINS: I don't know if I can say that, but I can tell you that it is extremely busy.

MR. DAVID: Okay. In terms of the embassy, in terms of the 12, I believe you said 12 consular offices in all for the United States?

MS COLLINS: Twelve in all, yes.

MR. DAVID: How many people would be dealing with you directly in terms of --

MS COLLINS: If you think about it, it's two to three people per consulate.

MR. DAVID: So in the area of 30 to 40 people. Would that be a fair assessment?

MS COLLINS: Around the area of 30 people, yes.

MR. DAVID: Those would be people involved directly with providing consular

services?

MS COLLINS: Consular officers and consular program officers and consuls.

MR. DAVID: Okay. And at the relevant time, Ms Collins, how many JPO officers, case management officers, were working in Ottawa for the entire --

MS COLLINS: Well, we can go from the chart. We had one, two, three -- we had 12 fulltime consular officers at that time.

MR. DAVID: And that was covering the entire planet?

MS COLLINS: That's correct.

MR. DAVID: For the role that you play, we have seen some of the description of the functions that you carry out in your CV. Just to summarize, is it a fair assessment that you act as a reference point for the various consular officers --

MS COLLINS: And with families as well.

MR. DAVID: And with families, okay. Be they the families in the United States or in Canada?

MS COLLINS: That's correct.

MR. DAVID: Okay. You provide advice concerning policy, DFAIT policy, to the consular missions?

MS COLLINS: Yes, I could.

MR. DAVID: Okay. But you are basically a resource person for a consular officer in the United States?

MS COLLINS: Yes, I am.

MR. DAVID: In terms of the authorizations that may be sometimes sought by a consular officer, do you play a role in terms of seeking authorizations from superiors?

MS COLLINS: Absolutely.

MR. DAVID: Could you give some examples of the kinds of situations that require your intervention for seeking authorizations?

Would the issuance of a diplomatic note be an example?

MS COLLINS: Absolutely. We can go back on the issuance of a diplomatic note.

Consul generals and consulates do not send diplomatic notes. They are normally sent either from Foreign Affairs or directly from the embassy.

A diplomatic note is a formal --

it's the highest level of formal written to another country to raise -- you can raise -- it's a last resort we use it. I think Maureen used it as a weaponry.

When a person comes to us and asks us about using a diplomatic note, we have to weigh in of the pros and the cons of the diplomatic notes.

MR. DAVID: We will be covering the use of diplomatic notes in quite some detail a little later on in your examination. At this point I am just looking for examples of situations where you are intervening in terms of authorization.

MS COLLINS: Sure. I can give you another example.

We have an instance where a Canadian citizen dies in prison. The mission is informed. The mission will provide me with a report and asks me what should they do. What we do is we will weigh -- we will read everything that is going on and see if the protest to the U.S. is deemed reasonable or not.

MR. DAVID: Okay. Now, if I am a Canadian and I have a relative that is in the

United States that is experiencing some problems, do I call you directly?

In other words, how does it come to your attention that a Canadian or a family of a Canadian requires the services of your office?

MS COLLINS: It can come under various ways. They could have contacted the emergency operation centre, JPE, after hours. They could have received my name or my contact number through various contacts, their MPs, I guess from our website under international.gc.ca as well, or through the mission. The mission may have been in contact directly with the individual or a friend.

Normally what they would do is we try to facilitate that all calls in Canada come through Foreign Affairs, and calls from the United States stay within Foreign Affairs. It's not necessarily done all that. We can't dictate the family to call me only and not call the consulate, so it's whatever it feels perfectly capable between the two.

MR. DAVID: And in carrying out your functions here in Ottawa, are you dealing directly with U.S. officials in handling specific

cases?

MS COLLINS: No.

MR. DAVID: So whose responsibility does that fall upon?

MS COLLINS: It falls under the responsibilities of the missions.

MR. DAVID: In coming back to the workload description, you referred to the fact that there are approximately 1,700 active files at any given time concerning the United States?

MS COLLINS: Yes.

MR. DAVID: And that there are approximately 3,000 files per year, on an annual basis that are coming from the United States?

MS COLLINS: Yes.

MR. DAVID: In terms of detainees, worldwide Canadian detainees abroad, do you know what percentage the United States represents?

MS COLLINS: I believe it's in the 85 per cent.

MR. DAVID: So it's a very high percentage. The vast majority of Canadians that are detained abroad are detained in the United States.

MS COLLINS: In the United States.

MR. DAVID: And in terms of cases where Ottawa is required to intervene, do you have any idea of the number of cases that there is direct intervention from the Ottawa office?

MS COLLINS: There are a few, but not many. Numbers? I would say about -- less than a dozen.

MR. DAVID: So the vast majority of detained Canadian cases are dealt with by the local missions in the United States?

MS COLLINS: Correct.

MR. DAVID: Are you informed, however, of all the cases that do exist in the United States, or are you only coming --

MS COLLINS: Just about.

MR. DAVID: What is coming across your office, is it only the cases where you are intervening directly, or are you somehow looped into the existence of cases?

MS COLLINS: Through CAMANT, I am normally infocopied on the majority of the cases in the United States.

MR. DAVID: Obviously then there is certainly a distinction to be made in terms of the various complexities that may exist in

handling a situation. There are cases that are very complex and there are cases that are very simple.

MS COLLINS: Yes.

MR. DAVID: Would that be a fair way of putting it?

MS COLLINS: I guess so, yes.

MR. DAVID: If you had to describe what Mr. Arar's case represented in terms of complexity, could you gauge the complexity of that case in terms of your services and the services of the mission?

MS COLLINS: Mr. Arar's case at the very beginning was an ordinary consular case, an arrest/detention, until I guess when it developed and we lost Mr. Arar. Then of course it became a higher consular case, absolutely.

MR. DAVID: Okay. I would like now, Ms Collins, to cover with you the relationship that you may, that you have in your office in your function with the office of ISI.

We have had so far in public testimony the testimony of Mr. Daniel Livermore in this regard, and he has well described the functions of ISD and ISI and the distinctions that

need to be made.

I understand that you on occasion do have direct dealings with the officers within the office of ISI?

MS COLLINS: I have had dealings with ISI, but I just want to go back here.

Any dealings with ISI had to be authorized by the Director General.

MR. DAVID: That would be Gar Pardy?

MS COLLINS: Absolutely. If they needed something, they would go through Mr. Pardy, and Mr. Pardy would give them the authorization or consent to see me.

If there was something that I did know that I could give, or I could provide information to ISI, it was always in accordance and with the authorization of Mr. Pardy.

MR. DAVID: Okay. I understand that basically there are two scenarios. One scenario would be that you -- when I say "you", I mean your office or consular affairs -- would be going to ISI seeking information or seeking collaboration from the officers within ISI.

And then the more usual scenario

is the ISI officers would be coming to the consular affairs office seeking, again, assistance or information.

Could you describe the two scenarios that exist?

MS COLLINS: In cases with ISI, there has been times where we were looking for an individual. We had known that the person may have been detained in the United States. We are not getting any responses or we needed some clarifications. Then ISI would be our point of contact to get us the information in order for us to better assist the Canadian.

I guess the reverse is that there has been times when ISI would have come up to us and would have told us that we are informed that there is a Canadian citizen detained in the United States. You might look at this area. And with the assistance of ISI, we were able to locate a couple of offenders that we wouldn't have been informed.

MR. DAVID: Okay. And is it your understanding that in those scenarios, the ISI would sometimes refer to the RCMP or to CSIS, or do you have any information in that regard?

MS COLLINS: No, I don't.

MR. DAVID: And in the scenarios where ISI is coming to consular seeking advice, could you maybe just give us some examples of situations where that has occurred that you know of?

MS COLLINS: Personally, in my instance? I don't know.

MR. DAVID: Okay. And in terms of a counterpart, is it fair to say that Mr. Heatherington, the director of ISI, was dealing mostly with Mr. Pardy?

MS COLLINS: That's correct.

MR. DAVID: And in terms of when you had direct dealings with the office of ISI, you would be dealing with Jonathan Solomon at the relevant time?

MS COLLINS: At the relevant time, yes.

MR. DAVID: Okay. Before we review some documents that are part of our chronology, there is one last issue I would like to cover very briefly, and that is your use of a notebook as a tool.

We will produce, and in fact we

could maybe do so now. It would be useful at this point if we file your personal notes, Ms Girvan -- Ms Collins. I am sorry about that.

THE COMMISSIONER: That would be 82.

MR. DAVID: Thank you.

EXHIBIT NO. P-82: Personal notes of Nancy Collins

MR. DAVID: What is the use that you make of a notebook?

MS COLLINS: I think everybody has a general different use of it. I am a person that will take notes, and I use my books as a reference. When you are dealing with so many incoming calls and so many things, for me it's a point of reference that I use. If I can't enter the CAMANT note immediately, then I will go back into my notes and I will be able to enter the information. Or if someone says, have you spoken, have you received a call from this individual, I could obviously go back into my book and say, yes, I did speak to the individual or I received a message or I left a message.

So it's a really good reference book for myself.

MR. DAVID: So you would be logging in essentially in your notebook the phone calls that may be coming to your desk?

MS COLLINS: Essentially almost everything, yes.

MR. DAVID: In terms of meetings, would you be using your notebook for --

MS COLLINS: Not always.

MR. DAVID: On occasion you would?

MS COLLINS: On occasions, yes.

MR. DAVID: Just give us an idea: How many calls do you handle on an average day in your office on your desk?

MS COLLINS: Thirty, 40 calls? These are messages incoming. It could be that people sometimes will call me -- I have had cases where the person will call me 15, 20 times. That's just one person. And then I have a series of other people calling me.

I try to return the calls very promptly, but it varies. There are cases where you have individuals that will just call and call, and you have a case where the person will call and will wait for your return call.

So from an ordinary day it can be

from 40, 50, 30. But it varies in the margin.

MR. DAVID: Okay. And is e-mail part of your work habits also?

MS COLLINS: Yes, the voice messages, e-mail and CAMANT as well.

MR. DAVID: How many e-mails would you, on average, receive in a day?

MS COLLINS: Seventy-five, a hundred, if not more.

MR. DAVID: And the final point before looking at some documents, Ms Collins, is that you as a desk officer for the United States, your functions or your implication in terms of the Arar time line, when did that end, officially end? When was it shifted over?

I understand that it shifted over to the Middle East desk.

MS COLLINS: That's correct.

MR. DAVID: And that was occupied by Ms Myra Pastyr-Lupul?

MS COLLINS: Yes.

MR. DAVID: So when did that transfer occur?

MS COLLINS: If I recollect, I believe it was October 16th.

MR. DAVID: Of 2002?

MS COLLINS: Of 2002.

MR. DAVID: Okay. So if we could now go to the volumes, which is Exhibit P-42, I believe, and look at tab 1.

THE COMMISSIONER: Sorry, what number was it?

MR. DAVID: Tab 1.

THE COMMISSIONER: Of the DFAIT documents?

MR. DAVID: Of the DFAIT documents, yes.

I am just referring you to tab 1 very briefly. We have covered this tab with Ms Girvan this week. It's to establish the starting point of DFAIT's intervention in the Arar time line.

And this is a message coming in to what you have described already, it's the emergency services office, JPE, and it's a call coming in from Taufik Arar, the brother of Maher, signalling that his brother has been missing since the 27th; so for two days, approximately.

And basically New York City or the New York consular general's office is being tasked

in this message.

MS COLLINS: Yes.

MR. DAVID: And we see that in fact the message is going from JPE. It's essentially going to New York City?

MS COLLINS: Yes.

MR. DAVID: There is an info copy, however, to yourself, to the Ottawa branch of JPO, and your name appears on the bottom line?

MS COLLINS: Correct.

MR. DAVID: Could you explain the procedure involved here? Why are you being looped in at this point?

MS COLLINS: It's standard procedures that when you work in emergency operations centre, when you open a file, of course the CAMANT note goes to the mission for action, and you infocopy the case management officer so that they are aware that there is a new case opened.

MR. DAVID: Did you act at this point on this information? Did you have any duties?

MS COLLINS: No.

MR. DAVID: Or did you do anything

in terms of receiving this message?

MS COLLINS: No.

MR. DAVID: I would like to bring you now to tab 4, and this is a CAMANT note for October the 1st, which is the Tuesday.

MS COLLINS: Mm-hmm.

MR. DAVID: Again, you are not directly infocopied on this, but it is going to your immediate superior, John Carisse, as an infocopy.

It is information that is coming from Tunis, from the Tunis office, and it's simply explaining that Mr. Arar is travelling with the expired passport of his son Houd. As you know, the itinerary of Mr. Arar was to fly into the United States and then fly from the United States to Canada.

I was wondering if you have any comments about the fact that Mr. Arar was travelling with two sets of travel documents, of passports?

MS COLLINS: Especially after post-9/11, it was not recommended. I can't say it was illegal, but it was highly not recommended that people travel with two passports, especially

the dual nationals. They reinforced that.

It's always been given in the United States that you should not be travelling with two passports.

With the fact of the passport of a child, of course that could alert the authorities of other -- you know, of other activities.

But Mr. Arar was travelling with I guess his son's passport that was no longer valid.

MR. DAVID: Okay.

MS COLLINS: So nothing was really drawn more than that.

MR. DAVID: Was that a potential concern in terms of your office?

MS COLLINS: Not necessarily. I mean, it's something that -- it's good to know.

MR. DAVID: If we could now go to tab 9, Ms Collins, again this is on Tuesday, October 1st?

MS COLLINS: Yes.

MR. DAVID: If it can assist you, there is a calendar there for the month of October 2002, just to situate you.

Here we have a message coming from New York City confirming that Mr. Arar is being

detained at MDC.

MS COLLINS: Mm-hmm.

MR. DAVID: Is there any significance -- and you are being infocopied on this message.

Is there any significance that you attach to the fact that Mr. Arar is detained at MDC at this point? Are you familiar with MDC?

MS COLLINS: I am familiar with MDC.

MR. DAVID: And is there any significance to the fact that he is detained --

MS COLLINS: No.

MR. DAVID: -- at the Metropolitan Detention Centre?

MS COLLINS: No. Not at this point, no.

MR. DAVID: Okay. If we could go to the next tab and that is again for Tuesday, October 1st. That is tab 10.

Here you are directly involved. You are having a phone conversation with Mr. Taufik Arar, the brother, and it's being signalled to you that he is extremely afraid -- or you are noting anyhow of his extreme fear that he

may be deported to Syria, and your CAMANT note is quite clear. In fact, it refers to the fact that Mr. Taufik Arar is in a state of panic.

MS COLLINS: Yes.

MR. DAVID: In this message you are tasking New York to forward a letter of introduction, and signalling that the family would like to visit the subject and are there any particular guidelines.

Do you have any comments about this?

MS COLLINS: Sure. Most people when they call, from experience as a consular officer, is that when they learn a loved one, a friend, a family member that are arrested, or something is happening, they are always, always in extreme emotional state. We have a tendency, as consular officers, of trying to reflect that in our note-taking because we want to know how the person is feeling.

The subject about deportation to Syria, I had asked Mr. Taufik what was the fear of being deported --

MR. DAVID: Have you ever been confronted with a similar situation where somebody

fears being deported to a country that they are normally not going to, that they are not destined to?

MS COLLINS: We do, even today, we still do. It's perfectly, I guess -- a person in a family, when they are born of another country and I guess they are placed in front of a deportation, that's their initial fear, is am I going to be deported to the country of birth?

And if we are in contact with these individuals and we know they are Canadian citizens, we always let them know that -- we confirm the nationality of the Canadian citizenship. That's why we communicate directly with the vital statistics of each province, Citizenship and Immigration Canada, to determine that this individual is indeed a Canadian and that they have a right of entry into Canada.

So that is a normal fear of dual nationals.

MR. DAVID: If we could just refer now to your personal notes, which we filed as P-82?

MS COLLINS: Yes.

MR. DAVID: For this phone call, I

believe there is an entry -- or there are entries, I should say.

Could you look at pages 2 and 3 of this document and maybe just explain to us the chronology of details with respect to this call?

MS COLLINS: Yes. I believe that page 2 is October 1st. The two in a circle for me means that it's a message. I am on the phone, and then after I hang up, I pick up my messages and then I note all the messages.

And "brother detained deportation" is normally a reference point for me what the message was about.

MR. DAVID: And can you indicate the time for that message?

MS COLLINS: I am sorry, I don't see anything. It must have been in the morning because later on it says 12:00. So it had to be in the morning.

Again, this is all part of my messages, and he has called twice while I was on another call.

MR. DAVID: And this brother that you identify, is this Mr. Taufik Arar?

MS COLLINS: Yes, it is.

MR. DAVID: Okay. And then can you just continue on?

MS COLLINS: Sure. I returned his call. He was not there. I speak with his wife. I tell him I am returning his voice message and to please call me back.

And then again I speak with -- at this point it's noon and I get a chance to speak with Mr. Taufik at that time.

MR. DAVID: Okay. And do you recall the duration of that phone call?

MS COLLINS: I don't recall.

MR. DAVID: Okay. What information did you try to assess and obtain from Mr. Arar with respect to his concerns about the deportation to Syria?

MS COLLINS: I asked Mr. Taufik if he could help me with as much information as he can provide me in order to understand the case and also to provide with adequate consular services. I remember Mr. Taufik indicating that he was afraid his brother would be deported to Syria. I asked him why was he afraid and what belief did he have that he would be deported to Syria?

I asked him if one of the fears is

because he had not served -- I didn't know, I assumed at that time -- military service.

And then I asked him again if he had travelled on a Canadian passport. And normally a person, when one enters any country, you assume the nationality of the passport that you have entered. And I asked him if he had travelled on his Canadian passport, and he told me yes.

All he kept on saying after that, when I tried to ask him any other questions to help me, was "get him out, get him home".

And I thought that trying to speak with Mr. Taufik made it very, very difficult for me. He was not able to give me some of the details that I wanted. He was very, very firm, "Get him out, get him out", and I was trying to understand, trying to explain, and he wouldn't understand. So he made my job very, very difficult.

MR. DAVID: Did you get an understanding as to why certain information was not being provided to you?

MS COLLINS: I had no understanding. I didn't know why.

MR. DAVID: Okay. And you referred, Ms Collins, to the fact that you sought clarification as to whether Mr. Arar had served or done his military service in Syria.

What was the basis for that question?

MS COLLINS: Working in emergency operations centre, you have calls coming in from people, and they ask questions about travel -- you know, the country reports. "I am going there. Do I need a visa?" So they do ask you certain questions about the country. "Is there a travel advisory?" "Can I travel to Syria if I am a Syrian and I haven't served my military. What should I do?"

Normally we refer them to the country travel report and we also advise them that they should communicate with the embassy of Syria, or the embassy of Lebanon, or whatever the embassy, for them to seek further clarification.

We are there to provide them with a basic principle of information, and it's up to the individual to ensure that they know fully what they are getting themselves into.

MR. DAVID: And had you had any

specific previous experience with regard to the situation that may exist in Syria --

MS COLLINS: No.

MR. DAVID: -- with any other detained Canadian?

MS COLLINS: No.

MR. DAVID: And did you have any specific information concerning how military service is carried out in Syria and the consequences of that?

MS COLLINS: No, I don't.

MR. DAVID: So this was just based on your general reflexes --

MS COLLINS: My general knowledge.

MR. DAVID: General knowledge, okay.

MS COLLINS: Yes.

MR. DAVID: We see again, coming back to tab 10, that you also informed Taufik Arar that his brother was in fact located by consular services?

MS COLLINS: Yes, I did.

MR. DAVID: And that you were seeking to clarify the charges about him.

MS COLLINS: Yes.

MR. DAVID: In terms of the chronology of events, I refer you now to page 4 of your notes for that same day, and there is an entry at 1314.

Could you describe to us what is occurring in this entry?

MS COLLINS: I am trying to remember this. I mean, this is a long time ago --

MR. DAVID: I believe it's a call from Ms Marlene Catterall's office, who is an MP?

MS COLLINS: No. Actually, it's a call from Helen Harris, and we are discussing two points.

One is that -- I am not sure if she has spoken with the office of Marlene Catterall, or she had received a message. I am unclear.

And we also talked about NSEERS.

MR WALDMAN: And what does NSEERS mean?

MS COLLINS: NSEERS is the National Security Entry Exit Registration.

MR. DAVID: And what is that? Could you just describe that for us?

MS COLLINS: After 9/11 the

Americans started fingerprinting and interviewing people of Arab descents, and that was at that time. And we were working on, I guess, getting the information in order to publish this in a travel report.

MR. DAVID: If we go now to tab 11, Ms Collins, this is an entry again for Tuesday, October 1st. It's a fairly lengthy message from Ms Girvan and Lisiane Le Floc'h from New York City and describes the unfolding of the day's events as they occurred.

MS COLLINS: Yes.

MR. DAVID: Again, you are being infocopied on this message.

When did you, first of all, take cognisance of the existence of the message, or the contents of the message?

MS COLLINS: The following morning.

MR. DAVID: Why is that?

MS COLLINS: It came in after I had left for the day.

MR. DAVID: Okay. This is dated -- the hour that appears is 1647, so you were not in your office when you received this

message?

MS COLLINS: Correct.

MR. DAVID: There is reference in the third paragraph -- I would like to bring you to the third paragraph here -- to the fact that the New York office contacted the INS Public Affairs office:

> "... and was again told that no one was there to discuss the case. Lisiane asked to speak to the superior, and we then spoke with Officer ... As Officer was not aware of the case, he undertook to contact ..."

His own INS office at JFK airport and obtain information for consular staff. This officer then called back within the next 15 minutes.

> "Officer ... called us back as promised and informally advised us that this case was of a seriousness that should be taken to the highest level, i.e. he suggested that

our Ambassador in Washington should contact the Department of Justice."

First of all, I want to know what is your appreciation of the language used in this message, the fact that it refers to a serious case and the suggestion is being made here that the Canadian ambassador contact the Department of Justice in the United States?

MS COLLINS: May I read it so I can --

MR. DAVID: Sure.

--- Pause

MS COLLINS: Okay.

MR. DAVID: So again, you read this message on the next day, on the Wednesday, October 2nd?

MS COLLINS: Yes.

MR. DAVID: And how do you act on the message? How do you react to it and how do you act on it?

MS COLLINS: Well, when this message had been edited -- or written, I also noticed that Maureen had spoken with Helen Harris, who was the acting director general at that time.

And when a person says the highest level, "suggesting the ambassador in Washington talk to the Department of Justice", these are not the normal procedures that are undertaken. There are levels that need to be done before this is reached.

I mean, you cannot just call -- Maureen cannot just pick up the phone and talk to the ambassador and ask the ambassador to intervene. It's a decision that needs to be taken with Foreign Affairs at a higher level, and then from there it would be decided what would be the best course of action.

MR. DAVID: Okay. We see that Ms Girvan attempted to contact Gar Pardy with regard to what had occurred on the Tuesday and spoke to Helen Harris.

MS COLLINS: Yes.

MR. DAVID: Was Mr. Pardy away at this time?

MS COLLINS: I believe so, yes.

MR. DAVID: Did you go and speak to Ms Harris about the contents of this message?

MS COLLINS: I believe we met the next day.

MR. DAVID: And what was -- were there any decisions --

MS COLLINS: About the diplomatic note you are talking about, or any decision about this?

MR. DAVID: Yes.

MS COLLINS: The whole context, there was -- and I think we can go back into the other tabs for justifications of the diplomatic note.

I think the main point here was to locate Mr. Arar and see what were the charges in order to evaluate what seriousness this was.

MR. DAVID: If you read the before-last paragraph, it says:

> "Actions: New York will speak to JPE ..."

Which is Helen Harris.

> "... and Washington, D.C..."

And we understand from Ms Girvan that that was Mr. Bob Archambault.

MS COLLINS: Yes.

MR. DAVID: "... firs thing in the morning as to the advisability of a Dipnote to

State in order to obtain information about this case, and to advise U.S. authorities that we were not officially notified of the arrest."

Did you have a discussion at this point with Helen Harris about the advisability of the issuance of a Dipnote?

MS COLLINS: The next morning.

MR. DAVID: On the Wednesday?

MS COLLINS: Yes.

MR. DAVID: Did you come to any sort of conclusion or position with Ms Harris or did Ms Harris give you direction in this regard on the Wednesday?

MS COLLINS: We talked about a diplomatic note, and it was agreed that we would wait, first of all, as to the fax from the MDC about the charges, the confirmation of where he was.

About the notification of arrest, that's something that we -- I guess it's further on that Washington is doing on our behalf in an informal way. Canada is not a mandatory country,

has not signed a multilateral treaty with the United States to be a mandatory notification country. They do, under Article 36, indicate that "without delay". But without delay is -- it could be 24, 72 hours, sometimes never. It depends on which country.

So it is up to the individual to advise us, the families, or sometimes the police force.

There is an outreach program from the State Department and they are trying to do that.

MR. DAVID: Again coming back to the message coming from the senior INS officer that the ambassador in Washington intervene with the Department of Justice, had you ever seen that kind of suggestion made in the past: that there be, in other words, communication between the Washington embassy, the Washington Canadian embassy, and the Department of Justice of the United States?

MS COLLINS: No.

MR. DAVID: And what did you make of that suggestion on the part of the INS officer?

Did you have any reaction to that

suggestion?

MS COLLINS: Not necessarily, no.

MR. DAVID: We can go now to Wednesday, October 2nd, Ms Collins, and I bring you to tab 23. This is a series of five e-mails that exist that deal specifically with the issue of the advisability of a diplomatic note as had been referred to in the message we just reviewed.

Let me start with the first e-mail at the very bottom of the page, the first page?

MS COLLINS: May I read the full content?

MR. DAVID: I was just going to bring you to them.

So the first message, Ms Collins, is being cc'd to you?

MS COLLINS: Yes.

MR. DAVID: It is a message that is coming from Maureen Girvan going to her counterpart in Washington, Mr. Archambault.

It says:

> "Bob, if you have had time to read the CAMANT note of Oct. 1 on this case, perhaps we could talk this morning. At

issue is what is the best way to proceed - through Embassy contacts or through Diplomatic Note. Helen Harris and I spoke last night and we are tending to think that the latter will be necessary as we have been referred by local authorities to the Department of Justice for any information on this arrest and detention. Family are very anxious for information."

Signed Maureen. And it's infocopied to you.

You respond to this message. This message was sent at 8:49 in the morning, and you respond at 9:30. And your response to Maureen is as follows:

"I suggest that we treat this case the same way as we did with the ..."

MS COLLINS: The "X" case.

MR. DAVID: It's the "X" case?

Thank you.

And then you refer to a CAMANT note in that regard.

"As you will certainly recall, we had the same problem when we tried to get confirmation of ..."

And I guess that would be "X."

"... X's detention and our request to have consular access with him. In addition, we did send a dip note."

Let me first ask you: You are making correlation between what is happening to Mr. Arar at this present time with what happened to Mr. X, or what you had experienced in terms of a scenario in the "X" case.

Can you please provide us with your appreciation of what the similarities were.

MS COLLINS: Sure.

MR. DAVID: In that regard, I refer you to the two exhibits, P-52 and P-53, which we have already filed. They are a summary of the cases that concern Mr. X and Mr. Y.

MS COLLINS: Thank you.

MR. DAVID: Exhibit P-52 is the scenario that we have on Mr. X, and P-53 is the scenario for Mr. Y.

Let's deal with Mr. X for the time being.

Could you give us a description of the time line of the chronology concerning Mr. X, as you recall it?

MS COLLINS: Mr. X, if I recall, the call that came in started as a wellbeing/ whereabouts.

MR. DAVID: That's a term of art within DFAIT.

MS COLLINS: I am sorry.

MR. DAVID: Could you give us what that means, wellbeing --

MS COLLINS: A wellbeing/ whereabout meaning that Mr. X normally contacted his wife, and it had been two weeks that there was no calls, and it was very unusual for the wife. She contacted Foreign Affairs to see if there was any reports or if we had been informed of an arrest or what she could do to locate her -- Mr. X. I believe that was in September 2001.

We were later informed by his attorney -- I will just go back, sorry.

Attempts in trying to locate Mr. X were undertaken at that time. Nothing came out of it. Negative.

MR. DAVID: And to be maybe a little bit more specific, when you say "attempts", that was the mission, the consular general's office in New York City --

MS COLLINS: Correct.

MR. DAVID: -- was actually taking steps to locate --

MS COLLINS: Mr. X.

MR. DAVID: -- with the U.S. authorities, where Mr. X was being --

MS COLLINS: We didn't know if he was detained.

MR. DAVID: You didn't know.

MS COLLINS: That was one thing. Normally when a person had not heard from an individual, I guess we assume sometimes that they may have been detained either by the police or by immigration.

So attempts in locating Mr. X at that time, the calls were placed through INS and

also to the Bureau of Prisons, or the Department of Corrections, and it came negative. We didn't have anything out of it.

MR. DAVID: So in effect the U.S. authorities were providing you with information that they did not hold Mr. X --

MS COLLINS: At that time, correct.

MR. DAVID: At that point.

Do you recall when those efforts were undertaken with the U.S. authorities to locate Mr. X?

MS COLLINS: That was shortly after the first call.

MR. DAVID: And in terms of timeframe, when was that, if you recall?

MS COLLINS: Normally, when a call will come in and a note is taken into CAMANT, and the action is sent to the mission, the action is normally taken almost immediately, if not within a day. It's taken relatively quickly.

MR. DAVID: How much time was spent trying to locate Mr. X by the mission?

MS COLLINS: I don't remember.

MR. DAVID: How is it that you

were able to locate, in the end, Mr. X?

MS COLLINS: We received a phone call from his attorney and I believe, if I read here ...

MR. DAVID: It's in the second --

MS COLLINS: In mid-November.

MR. DAVID: In mid-November, okay. So Mr. X was missing as of September 2001?

MS COLLINS: Yes.

MR. DAVID: And so it took several weeks before he was located?

MS COLLINS: Correct.

MR. DAVID: He was located by his attorney, and it was his attorney that advised the Department of Foreign Affairs where he was located?

MS COLLINS: Yes.

MR. DAVID: And what did you find out about where he was located from his attorney?

MS COLLINS: We found out that Mr. X was at MDC on the 9th floor, which at this point we had no idea what the 9th floor was.

MR. DAVID: Did you find out since when he was detained?

MS COLLINS: We had been told that he had been detained shortly after, a couple of weeks after 9/11.

MR. DAVID: Okay. So he was detained as of September?

MS COLLINS: Yes.

MR. DAVID: Do you know if specifically the steps that the consular office in New York undertook to locate him would have included being informed that he was detained at MDC?

In other words, was MDC one of the facilities that was on the request list of the consulate office to try to locate him?

MS COLLINS: I am not sure I am ...

MR. DAVID: Well the question -- I guess what I am trying to get to is: Were you misinformed by the U.S. authorities as to the fact that Mr. X was not detained when he was detained?

MS COLLINS: At the time when we called, absolutely. The MDC indicated that they did not have him on the list. We later found out that he was on a special list, and that when you call the records they didn't have access to the

special list.

MR. DAVID: Okay. So it's not so much that you were being misinformed on purpose; it's just that the procedure that had been followed did not allow for his specific location?

MS COLLINS: Correct.

MR. DAVID: Was this the first time that you had found out about the existence of a special list in a special area of MDC for the possibility of detention?

MS COLLINS: Yes, it was.

MR. DAVID: Coming back, Ms Collins, to the message that you are sending to Maureen on October the 2nd, and it's the second message that we have identified, you are comparing Mr. Arar's scenario to the scenario of Mr. X, and I am just wondering what is going through your mind to make that comparison.

MS COLLINS: I guess what I am comparing is the difficulty in finding out anything about Mr. Arar, locating him. It just seemed so similar as Mr. X, that we had been given the run-around.

MR. DAVID: Okay.

MS COLLINS: And the difficulty of

getting the cooperation of the Americans. And that was where the similarity was at that time.

MR. DAVID: Do you recall whether in the "X" scenario there was difficulty in ascertaining the charges also concerning this detained Canadian?

MS COLLINS: Yes.

MR. DAVID: Okay. We understand that Mr. X was a terrorism suspect.

MS COLLINS: He was an alleged, yes.

MR. DAVID: So in that regard there was also -- well, I guess you don't have that confirmation at this point concerning Mr. Arar?

MS COLLINS: No, we don't, not at this point.

MR. DAVID: But you are starting to see similarities in terms of the situation?

MS COLLINS: Yes.

MR. DAVID: Let us proceed now to the third message, which is coming again from you, a few minutes later. It is at 9:53. Again it is going to Maureen Girvan and to Mr. Archambault.

You are saying the following:

"Maureen, Bob
Before we proceed with a dip note, I suggest that we wait and see if the MDC will reply to our fax sent last evening. Should they fail to provide us with a response, I then suggest that we then send the dip note."

So on one hand, from your previous message, it seems to be that Helen Harris and you have discussed the advisability of a dipnote and fundamentally are in agreement that maybe a dipnote should be resorted to concerning Mr. Arar?

MS COLLINS: Yes.

MR. DAVID: And then you are sort of maybe nuancing that position in this third message at 9:53?

MS COLLINS: That's correct. We want to give some time because the MDC had told Ms Girvan that they wanted to have a fax in order to proceed with the charges, or any information.

They wanted to make sure that Ms Girvan was calling from the Canadian Consul General of Canada and not calling from somewhere

else.

So they wanted two things: one, is confirmation of the macro; and, two, they wanted something in writing.

They didn't say they were not going to give us access or give us any information. All she said is, "Send me a fax and I'll get back to you."

So before proceeding and jumping right to the diplomatic note is to give the time of that person. There was a fax I sent that evening. We are now early in the morning. Let's wait a little bit. If they don't come back, then absolutely. We have now a stand, an argument, to use a diplomatic note.

MR. DAVID: And just for the record, the fax in question was filed before the Commission as P-57, which was sent on October 1st, requesting the charges.

We move now to the fourth message, and this is now coming from Maureen Girvan and it's going to you.

It says:

> "Nancy: Yes, and in fact we are going to follow up on the

fax with a call this morning, though the advice we received from public relations suggests that we are unlikely to be successful, I will speak with Robert Archambault a little later (I missed their first call), but understand from Helen ..."

And that we understand is Helene Bouchard in Washington?

MS COLLINS: Yes.

MR. DAVID: "... that they are likely to check with their contact at Justice informally as a first step at their end. The Dipnote, if necessary, can follow that."

Signed Maureen Girvan.

So in the end there seems to be a general consensus between both Ottawa and the New York City office that we are going to wait, we are going to stand down on the issue, on the idea of sending the dipnote?

MS COLLINS: That's correct.

MR. DAVID: A dipnote was in fact sent in the case of Mr. X, if you recall.

MS COLLINS: Yes.

MR. DAVID: Could you give us some background as to when that was resorted to and why it was resorted to? What was the purpose of the dipnote in the "X" case?

MS COLLINS: The diplomatic note -- I am just trying to remember here. The diplomatic note was sent after our first visit with Mr. X. It is after we had received our first visit with Mr. X.

MR. DAVID: It was a consular visit?

MS COLLINS: It was a consular visit.

MR. DAVID: At MDC?

MS COLLINS: Correct.

MR. DAVID: All right.

MS COLLINS: We had been told by Mr. X that he had asked on numerous occasions, that he had asked to speak with the consulate and he had been denied.

We also in a diplomatic note raised two issues: one is the lack of consular

notification; and also the fact that we had been looking for him and we had called the MDC, and the MDC had said that he wasn't there when in fact he was there.

So these were the arguments that we had used in a diplomatic note.

So two aspects: one is lack of consular notification, which we later found out that he had signed something.

MR. DAVID: Requesting --

MS COLLINS: Requesting -- not requesting.

MR. DAVID: Not requesting.

MS COLLINS: Not requesting. And the other one the argument was we had called the MDC, from the time we were informed to the time we had access, and we had been told over and over that he wasn't there when in fact he was there.

So that was our argument with in the diplomatic note.

MR. DAVID: Okay. Let's just spend a few minutes now on a general discussion concerning diplomatic notes.

MS COLLINS: Yes.

MR. DAVID: Can you give us your

sense of how often they are resorted to as a means of communication with another government, in consular cases --

MS COLLINS: I can only speak with myself.

MR. DAVID: Sure.

MS COLLINS: Not often. The diplomatic note is a form -- like I have mentioned, it's a high level of communications between two countries, and those normally are issued -- we issue a diplomatic note or we send a diplomatic note as a last resort where we are not getting the collaborations. We have exhausted all levels of communications at the informal channels, and now we have no choice than to go to the formal channels.

You have to be careful with a diplomatic note, because in this instance if we would have gone the route of the diplomatic note, we would have frozen everything, every contact with MDC, every contact at the lower level. Once you send a diplomatic note to the State Department, you now have to deal with them.

They now send a request for investigation at MDC. You call MDC. They want

nothing to do with you. You have now launched something higher, and you have to deal with them.

We didn't want to do that. We wanted to have all of our options open here.

MR. DAVID: And could you give us an idea of annually, with regards to the United States, how many dipnotes are used, on average?

MS COLLINS: Three?

MR. DAVID: Three per year, so it's a rare --

MS COLLINS: Approximately, yes.

MR. DAVID: And that would be with regard to about 3,000 cases?

MS COLLINS: Yes.

MR. DAVID: So it's really quite exceptional.

And the response time, can you give us --

MS COLLINS: It's a game. Sometimes you get an answer, sometimes you don't get an answer. There is no time limit for them to reply to you.

MR. DAVID: So in terms of their efficiency, I am getting a sense from you that having direct dealings with counterparts and

contacts is a more efficient way of dealing with a detained Canadian situation than through a dipnote?

MS COLLINS: Absolutely.

MR. DAVID: Is that your sense?

MS COLLINS: Informal channels.

MR. DAVID: In terms of your organization, who is the authorizing party? Who can issue a dipnote?

MS COLLINS: Normally, in my case I would draft a diplomatic note, pass it on to the Director, or the Director General, and they would make sure everything is okay. We would issue it through our embassy in Washington.

So Mr. Archambault would be the final person who would use the text, put it in the logo, and hand-deliver it directly to the State Department.

MR. DAVID: Would it be Mr. Pardy's decision whether a dipnote is used or not in a specific case?

MS COLLINS: Mr. Pardy or Mr. Carisse at that time, yes.

MR. DAVID: If they decide that a dipnote is going to be used, Mr. Archambault in

Washington cannot counteract that?

MS COLLINS: No. The final, final decision is Mr. Pardy.

MR. DAVID: So the decision is made from Ottawa in all cases?

MS COLLINS: Normally they can be suggested, but the decision is taken in Ottawa, yes.

MR. DAVID: There is another scenario that we were also provided with, and that's the case of Mr. Y. That's Exhibit P-53.

Can you briefly describe for us the chronology in the "Y" case, as you recall it.

First of all, I understand that Mr. Y was not a Canadian citizen, that he was a landed immigrant in Canada.

MS COLLINS: That is correct.

We became aware of Mr. Y -- the consul became aware, I should say, during his first visit with Mr. X. That's how we found out about Mr. Y.

MR. DAVID: Again, Mr. Y was detained for several weeks before you knew of his detention?

MS COLLINS: Correct.

MR. DAVID: And do you recall whether a diplomatic note was used in the case of Mr. Y?

MS COLLINS: No, it wasn't.

MR. DAVID: And do you recall what factors accounted for that?

MS COLLINS: I think we had consular access and -- there was no -- I am not sure.

MR. DAVID: Okay. I would like to refer you now, Ms Collins, to your personal notes for October 2nd, if you could just refer to page 5.

Could you bring us through pages 5 and 6, in fact page 7 also, and comment on your entries for October 2nd?

MS COLLINS: DCL is the -- it's the parliamentary secretary -- sorry, it's the --

MR. DAVID: You are now at the 9:20 entry?

MS COLLINS: 9:20. DCL is the cabinet liaison, I guess. They deal with the Q&As, the questions and answers, for the Minister's office. They are calling me.

This is totally irrelevant to

Mr. Arar, by the way.

I was dealing on other cases --

MR. DAVID: If it's irrelevant, let's just move on.

MS COLLINS: The only thing that was relevant here is 9:29, which I receive a message from Mr. Taufik Arar.

9:32 is relevant to 9:20.

MR. DAVID: So you have a message from Taufik Arar.

MS COLLINS: At 9:29.

MR. DAVID: Basically at 9:30 in the morning.

MS COLLINS: Yes.

MR. DAVID: And then on page 6?

MS COLLINS: I spoke to Mr. Taufik that morning at 10:25, and it's a short conversation. He now tells me that Mr. Maher Arar's mother-in-law, I believe in Ottawa, is being threatened. And I tried to obtain some information with Mr. Taufik in getting a sense of who was threatening, what relevancy it was, why was the mother-in-law being threatened?

I mean, I have no idea here. And he got really angry and he said, "That's not

relevant. Get him out." And hung up on me.

MR. DAVID: And the mother-in-law in question would have been Ms Mazigh's mother?

MS COLLINS: Which I now know, yes.

MR. DAVID: Which you now know?

MS COLLINS: Yes.

MR. DAVID: He did identify specifically his mother-in-law?

MS COLLINS: That's correct.

MR. DAVID: And you had no detail as to the nature of the threat.

MS COLLINS: No. I mean, our conversation is less than a minute. I tried to get some information with him, because I told him, "If you are raising this, then perhaps you could give me some indication or some understanding of why you are raising that." And it was very, very short.

MR. DAVID: The next entry?

MS COLLINS: I am looking at my messages, and I return messages with Washington. Again, this is relevant to another case.

MR. DAVID: Okay. So let's move on.

MS COLLINS: I remember, just after speaking with Washington, I went to see Mr. Pardy because that was troubling to me. I didn't understand --

MR. DAVID: You are referring to the threat?

MS COLLINS: To the threat.

MR. DAVID: Okay.

MS COLLINS: I spoke with Mr. Pardy and I asked him --

MR. DAVID: Is Mr. Pardy now -- I mean, there was a period of time where Mr. Pardy was absent and Helen Harris had been taking --

MS COLLINS: Yes. It could be Mr. Pardy or Miss Harris, but I remember distinctively that after this call I had sought an opinion: What do we do with this?

MR. DAVID: Mm-hmm.

MS COLLINS: And I was told that we should go to ISI and see if they can help us, and then that's when I make my first call to Jonathan Solomon in ISI.

MR. DAVID: He was your contact person?

MS COLLINS: He was my contact,

yes.

MR. DAVID: So you call him at 10:36?

MS COLLINS: Yes.

MR. DAVID: We can go now to page 7.

MS COLLINS: We are playing phone tags here.

MR. DAVID: Mm-hmm.

MS COLLINS: He leaves me a message. I leave him a message again in the afternoon.

MR. DAVID: And at 1409 on page 7 we see --

MS COLLINS: I am calling him. I don't think that I was able to speak with him.

MR. DAVID: So was the issue of the threats to the mother-in-law ever addressed with Mr. Solomon?

MS COLLINS: At 10:36. I spoke with Mr. Solomon at 10:36.

MR. DAVID: And what did you advise Mr. Solomon?

MS COLLINS: I just asked him if he was able to assist me in a case. I remember

telling him that I had received a call from an individual, the brother of an individual who was arrested in the United States, and that the mother-in-law of the individual, Mr. Arar, who was detained in the United States, the mother-in-law was being threatened and I asked whether it was possible perhaps to help me to understand or to see what we can find out.

MR. DAVID: And what was his reaction?

MS COLLINS: He asked me for the name of the detainee, the date of birth, and he told me he would check into it and possibly get back to me.

MR. DAVID: To your knowledge, was there any follow-up on this issue?

MS COLLINS: I don't recall getting anything back from Jonathan at all on this.

MR. DAVID: We can now go to tab 16, Ms Collins, and that would be for Wednesday, October 2nd. This is a phone call.

MS COLLINS: Yes.

MR. DAVID: Again, you are simply being infocopied. It's a call between Ms Girvan

and Ms Ward, who is an official at MDC and there is a reference to the charges. This would be the fourth paragraph.

There is also a reference to the possibility of a lawyer visiting.

But the fourth paragraph reads as follows:

> "On the charges: Ms Ward said that all she can tell me is that he is being held for an 'immigration violation'. She realized that this was not very specific, but suspected that wherever we might go, we would get 'the same runaround.'"

Reading this message or getting this message, did you consider the necessity of resorting to a diplomatic note on this issue?

MS COLLINS: No.

MR. DAVID: Did that come back up as a possibility?

MS COLLINS: No.

MR. DAVID: Because you will recall that there was an acceptance or an

agreement amongst all -- when I say "all", I mean Ottawa and New York -- that we are going to wait to see what they say about the charges as to whether we are going to resort to a diplomatic note.

Here you are getting very vague information that it's a immigration violation, and the prediction from this official that you are going to get the runaround if it comes to seeking further detail.

So I am just asking you: Did you reconsider the issue of the diplomatic note at this point on getting this information?

MS COLLINS: To tell you the truth, I don't remember if this was still an issue at this time. I know that Ms Girvan was also seeking consular access. I believe that if the consular access would not be permitted, then absolutely we would have proceeded with the diplomatic note.

We were trying to weigh everything here before taking action, so we wanted to see if they would get back to us.

I guess immigration violation is very, very broad, and it's not up to us to decide

if the person will be charged or not.

MR. DAVID: Okay. There is also mention in the last paragraph that Mr. Arar is being detained in the special security unit.

Did you understand that to be the same unit in question that you had experienced in "X" and "Y"?

MS COLLINS: I had presumed, yes.

MR. DAVID: So now you are making the complete link --

MS COLLINS: Yes.

MR. DAVID: -- that has to be made between Mr. Arar's situation and those two individuals.

MS COLLINS: "X" and "Y."

MR. DAVID: Thank you.

If we could go now to Tab 17, it's a reference to a Q&A, and Ms Girvan suggesting you want to develop press lines for this case.

I guess that's again just confirming that this is going to be a situation that is going to potentially draw media attention?

MS COLLINS: It could, yes.

MR. DAVID: Okay. Now, in terms of your responsibilities -- and we can go to tab

20 -- on the issue of a Q&A, it's my understanding that part of your functions also is to draft Q&As?

MS COLLINS: Yes.

MR. DAVID: Could you just tell us what the purpose of these are?

MS COLLINS: The Q&As are used to assist the Minister in dealing and answering and also we also have a spokesperson within Foreign Affairs and these are the questions and answers to answer to the media.

MR. DAVID: And what is the process? What procedure do you follow when you do draft a Q&A?

MS COLLINS: The process?

MR. DAVID: Yes.

MS COLLINS: We draft the Q&A, we have them approved by the director, and then it's automatically sent directly to the DCL, which is the division responsible for this.

MR. DAVID: All right. We see on the first page the anticipated question, and then there is a suggested reply. You would be drafting that?

MS COLLINS: Yes.

MR. DAVID: Okay. And on the

second page, there is a background or assessment?

MS COLLINS: Yes.

MR. DAVID: Advice to the Minister. And below that we see "Consultation".

In this case two entities were consulted. One was JPE and the other was the Consul General's Office in New York?

MS COLLINS: Yes.

MR. DAVID: So that is part of how these are prepared?

MS COLLINS: Yes.

MR. DAVID: Okay.

MS COLLINS: And it is approved by Helen Harris as well.

MR. DAVID: And this was dated October 2nd?

MS COLLINS: Yes.

MR. DAVID: We can go to tab 18. Again, we've seen this with Ms Girvan in detail.

So very quickly here, Ms Girvan is requesting yourself to inform the family of her intended visit, and this is on Wednesday, October 2nd?

Do you see that message?

MS COLLINS: Yes, I do.

MR. DAVID: Okay. We can go to tab 19, which is a reference to a call from Marlene Catterall's office, and we see the involvement of the local MP in this case.

Is that a common occurrence?

MS COLLINS: Yes, it is.

MR. DAVID: We move on now to October 3rd, the Wednesday, and we know that Ms Girvan visited Mr. Arar at MDC in the morning. We've heard her testimony.

I would like to bring you to tab 26. This is a fax that is coming from Ms Girvan to MDC, to Ms Ward in fact, where she is advising MDC that a lawyer is going to or is likely to contact them to visit Mr. Arar.

Is this a normal consular function, to do this kind of thing?

MS COLLINS: Consular are not responsible for an attorney to see their clients. That's their own responsibility. But in this instance Maureen felt that it warranted just to advise the facility that, I guess, an attorney or a lawyer would be seeing.

So she is just going above and beyond here the context of the responsibilities.

MR. DAVID: I would like to bring you now to your personal notes for that same day, October 3rd, and if you could go to pages 8 and 9 to review your entries on this day.

There is an entry at page 8 at 9:27:

"Called T. Arar. Line busy"?

MS COLLINS: Yes.

MR. DAVID: The next page, 11:31:

"Arar, no answer. Message left."

And then at 1339 you have a conversation with Mr. Taufik Arar.

Could you describe that chronology?

MS COLLINS: I am informing him of the visit, of the prison visit.

MR. DAVID: That has occurred?

MS COLLINS: Yes. I am giving --

MR. DAVID: You are following up on what Ms Girvan requested in her message to you?

MS COLLINS: Yes, I am.

MR. DAVID: Tab 29, we can go through this quickly.

Again, this is the phone call with

you with Taufik that you have just referred to, and you will see that the entry is at 1354.

So your notes reflect a conversation at 1339, and a few minutes later you are making this entry.

We can go now to tab 31, and this is the first visit report filed by Ms Girvan in terms of her access to Mr. Arar.

MS COLLINS: Mm-hmm.

MR. DAVID: I have two questions with regards to this entry.

There is reference, and it's the fourth paragraph, or the fourth entry, which refers to the fact that Mr. Arar is:

> "... a member of an organization that has been designated by the Secretary of State as a Foreign Terrorist organization, to wit Al Qaeda aka Al Qa'ida."

How do you react to this information? Does it raise the level of seriousness of this consular case? Had you seen this type of allegation before?

MS COLLINS: I have seen it

before, yes.

MR. DAVID: Would that have been in the cases of "X" and "Y"?

MS COLLINS: And other cases as well.

MR. DAVID: And other cases previous to Mr. Arar's?

MS COLLINS: Yes.

MR. DAVID: Where a similar allegation was made?

MS COLLINS: Yes.

MR. DAVID: In a document that was -- in description was it similar to this?

MS COLLINS: I can't tell you it was similar to this, but the allegations, yes.

MR. DAVID: Okay. Again, at the bottom of this message, Ms Girvan is referring to the fear of being deported to Syria and says the following:

> "... two immigration officers spoke to him ..."

That is Mr. Arar.

> "... and told him that they were going to send him to Syria. He said that asked

why, since he had not been to Syria for years and all his family is in Canada."

So this is the second reference now being made to a Syrian scenario in terms of deportation.

How do you react to this? Does this change anything?

MS COLLINS: I think the reaction was I think was pretty much the same all around, is the fact that we now have confirmation with the MDC, with the authorities, that Mr. Arar is a Canadian citizen. We are now given access to Mr. Arar, meaning that they approve the fact that he is a Canadian national.

So we had no reason to believe at this point that he was going to be deported to Syria. We had no precedent cases before, or even after Mr. Arar's, to base our point on this.

MR. DAVID: If we can go now to what I have termed the third visit report, and that is at tab 34, Ms Collins.

And here you are being actually tasked by Ms Girvan, and the message is -- Ms Girvan is confirming that Mr. Arar had

requested consular access or consular contact?

MS COLLINS: Yes.

MR. DAVID: That there had been no official notification by the U.S. authorities?

MS COLLINS: Mm-hmm.

MR. DAVID: And in the third paragraph she says the following:

"Gar, Nancy, Bob ..."

Gar would be Gar Pardy, Nancy is you, and Bob is Bob Archambault.

"Can we discuss tomorrow..."

That would have been for the Friday.

"... what steps the Canadian government can take to learn the basis for the charges. Maureen."

And obviously I guess there is now a reference to the al-Qaeda allegations.

Did this discussion ever take place, to your recollection?

MS COLLINS: Yes it did, and I think it's reflected in my note that we have just added, on October 4th.

MR. DAVID: If we can now --

MS COLLINS: On page 11.
MR. DAVID: So on page 11 --
THE COMMISSIONER: Is this on October 4th?
MS COLLINS: October 4th.
MR. DAVID: This is the entry in regards to this.
MS COLLINS: It's actually at two o'clock and I believe that I put down, from 1400 to 1428 that a conversation did -- a conference call did in fact take place with Mr. Pardy, Ms Girvan, Mr. Archambault and myself.
MR. DAVID: Could you describe to us what --
MS COLLINS: Sure. Maureen discussed the case and what she had known -- what she found out up to that point. Mr. Archambault, and I do recall, had indicated that he had received a phone call that day from the State Department acknowledging the detention.
So we now have a consular notification of the arrest of Mr. Arar.
We discussed -- I believe Maureen, as well, mentioned the fact that there was going to be a visit by the attorney the next day.

So the issue of the diplomatic note was now null. We didn't think that it would go into effect.

MR. DAVID: In terms of getting more precision or more precise information on the charges --

MS COLLINS: That's up to the attorney. The attorney is seeing Mr. Arar the next day. That's the responsibility of the attorney, to represent her client and the best interests to her client. And if there is anything that the attorney wants us, then they are to place that in writing and that would be sent to us at headquarters. And Mr. Pardy -- myself would look at it and Mr. Pardy, if we needed to have legal advice to see if we can assist the attorney.

MR. DAVID: Okay. We can now go to the next day, the Friday, October 4th, and go to tab 39. Again, we've covered this with Ms Girvan.

Very quickly, Ms Girvan is requesting that you provide the CCR, which is the Centre for Constitutional Rights, phone number to Mr. Taufik?

MS COLLINS: Yes.

MR. DAVID: And we see at tab 40 that you follow through, and that in fact you provide the information to Ms Mazigh, Mr. Arar's wife?

MS COLLINS: No. This is Mr. Taufik's wife.

MR. DAVID: Okay; thank you.

I would like now to bring you to your personal notes for this day, and that would be an entry on page 10? There's an entry at, I believe, it's 1158.

Could just read that for us.

MS COLLINS: Okay. I don't have a time.

THE COMMISSIONER: This is the ISA J. Solomon?

MR. DAVID: Yes.

MS COLLINS: That's when Jonathan was trying to request a meeting to discuss Mr. Arar because we had not spoken and now he is calling me to set up a meeting with myself and also Mr. Pardy.

MR. DAVID: So it's now Mr. Solomon's initiative to set up a meeting?

MS COLLINS: He is asking. He is

asking for a meeting with myself and Mr. Pardy. I don't recall that we ever did have a meeting until the 16th.

MR. DAVID: Okay. Do you get an indication -- and we have to be maybe a little careful here. But do we have an indication what the purpose of this meeting is at this point?

MS COLLINS: No, I don't.

MR. DAVID: And is this a normal course of business type of call to you on the ISI's part, to meet on a consular case?

MS COLLINS: It all depends. But in this instance I believe he couldn't speak over the phone, and that means that we would go and have a meeting. To me that's what it means.

MR. DAVID: So simply on this request you go to see Mr. Pardy and you would inform him of --

MS COLLINS: And then we would meet downstairs -- or upstairs in Mr. Pardy's office and discuss this case.

MR. DAVID: Continuing on now on the day, on page 10 there is an entry at 1320?

MS COLLINS: Yes.

MR. DAVID: Could you tell us what

this is about?

MS COLLINS: The first one is not relevant to this case. I have a message Mr. Taufik at 1320.

MR. DAVID: And then at page 11, we have the follow-through?

MS COLLINS: Yes. At 1338 I return Mr. Taufik's message and I leave a message.

MR. DAVID: Okay. And do you recall any --

MS COLLINS: It's reflected in my note, and I believe I leave a message with his wife, and I give the phone number of the CCR.

MR. DAVID: Okay.

Mr. Commissioner, it's now 11 o'clock, and I think it's an appropriate time to take the morning break.

THE COMMISSIONER: All right. We will rise for 15 minutes.

MR. DAVID: Thank you.

THE REGISTRAR: Please stand. Veuillez-vous lever.

--- Upon recessing at 11:02 a.m. /

Suspension à 11 h 02

--- Upon resuming at 11:19 a.m. /

Reprise à 11 h 19

THE REGISTRAR: Please be seated. Veuillez-vous asseoir.

MR. DAVID: Ms Collins we are going to now go to Monday, October 7th, and I bring you to your own -- I am sorry. Mr. Baxter just wants to clarify the issue of the personal notes for October.

MR. BAXTER: At page 11, Mr. Commissioner, Ms Collins called your attention to an entry from 1400 to 1428 that was mistakenly taken out of the bottom half there.

Since she deals with so many other cases, there is a lot of information obviously that deals with other cases. The actual entry reads "1400-1428 Gar's office."

That's all that it says. And we weren't able to recopy it, but it's in the bottom white box at page 11.

THE COMMISSIONER: Thank you, Mr. Baxter. That's helpful.

MR. DAVID: So, Ms Collins, I was referring you to page 12 of your personal notes for Monday, October 7th?

MS COLLINS: Yes.

MR. DAVID: And at the bottom there is an entry.

MS COLLINS: There is a message from Mr. Taufik Arar asking for an appointment with Foreign Affairs to discuss the case of his brother.

MR. DAVID: Okay. With anybody specifically or ...

MS COLLINS: He just said I want to meet somebody at Foreign Affairs.

MR. DAVID: Do you know if that was followed up, to your knowledge?

MS COLLINS: I believe, yes, it was, after -- I don't remember the date, but Mr. Pardy did meet with the family.

MR. DAVID: I bring you now to Tab 44, and this is an entry for 11:31. It's coming from New York. It refers to three phone conversations that Ms Girvan is having with Monia Mazigh, with a lawyer by the name of Oummih, and also with a friend of the family.

I bring you to that third telephone conversation, which is the second paragraph, to the family friend.

MS COLLINS: May I just have a

moment to read it?

MR. DAVID: Sure. I was going to read it with you and that way --

MS COLLINS: Okay, perfect.

MR. DAVID: So the friend:

> "... called. He asked if there would be consular representation at the meeting with INS this evening. I said 'not normally'. In fact, we are not even usually informed. Clearly in this case, they are saying that the lawyer can attend. I said that I would not be able to attend the hearing this evening."

And that is in reference to a message that had been coming in from Ms Oummih, informing Ms Girvan that there was to be an interview. She was informed of the fact that the district director of the INS had called Ms Oummih, informing her that they would like to interview Mr. Arar this evening, that is the Monday evening, at 7 p.m.?

MS COLLINS: Yes.

MR. DAVID: And so what the friend is inquiring about is whether, in addition to the lawyer being present, whether the consul would be present at this interview.

MS COLLINS: We never attend --

MR. DAVID: That is my question. What is the procedure in this regard in terms of the services you offer?

MS COLLINS: We never attend any INS deportation hearing or interviews, ever. In my time that I have been with consular affairs, we have not done so previously and we are not doing it so now. So it's not a normal procedure that we do.

MR. DAVID: Okay. Are there proceedings, judicial proceedings, where you are in attendance?

MS COLLINS: Yes, as an observer only.

MR. DAVID: And what sort of scenario would that cover?

MS COLLINS: It depends on the case. We have cases where we have a person who possibly could face the death penalty. Absolutely

we would want a Canadian representative to be at the court, at the sentencing, absolutely.

MR. DAVID: I bring you now to your personal notes, page 13 and page 14 for the same date, Monday, October 7th. There is an entry at 12:26.

"Message from Jonathan Solomon."

And then the entry at 1516 on page 14.

Could you tell us what that concerns, again from Mr. Solomon?

MS COLLINS: I am not sure exactly if this deals with Mr. Arar or not, or if it was dealing to another particular case.

On the other one, I don't recall -- I think maybe following up on the meeting again, but I don't remember.

MR. DAVID: Okay. I bring you now to Tuesday, October 8th, tab 45. Ms Girvan is now informing you, as well as others, that Mr. Arar has been removed from MDC between three and four o'clock in the morning.

Can you tell us what this brought to your mind at this time?

MS COLLINS: I am referring to Mr. X again, where we had lost him.

MR. DAVID: Mm-hmm.

MS COLLINS: This is not, I guess, an odd practice in America. They do not only with U.S. INS but also with regular prisoners, that is transported by the Bureau of Prisons or the U.S. Marshalls, and they do that in the middle of the night. We are never told. And the reason behind that is that it's for security reasons.

MR. DAVID: And if the scenario is a deportation scenario, is this a common occurrence, to be transferred from a federal prison to an INS immigration holding centre?

MS COLLINS: Yes, and that's where we are referring to INS Manhattan, because in the previous two cases, Mr. X and Y had been transported to INS Manhattan.

MR. DAVID: If we could now go to tab 47, this is for again Tuesday, October 8th.

Now in this message, through a contact that had already been established a few days before that had been a helpful source of information for the Consul General's office in New York concerning Mr. Arar and locating him, this

same contact is verifying on behalf of the personnel, the consular personnel in New York, and is being referred to now INS headquarters in Washington.

Had this, to your knowledge, from your point of view, ever occurred before?

MS COLLINS: No.

MR. DAVID: And again you are being infocopied on this.

How did you react to this information that now you are being referred -- you don't know where Mr. Arar is. He has been removed from MDC. And a helpful contact is referring you to INS headquarters in Washington.

MS COLLINS: We are trying to locate Mr. Arar. We have had in other cases lost individuals, and it took us a while to locate the individual. So I would presume in this that the INS doesn't know, and I guess the official channel now who would know would be U.S. Immigration in Washington because they would have access now to, I would believe, the database, as U.S. Immigration in Manhattan may have only access to their own database.

So now go to Washington and see if

they can give you some insight.

MR. DAVID: Okay. There is an entry in your personal notes on page 15.

MS COLLINS: Page 15?

MR. DAVID: And we see that the CAMANT note at tab 47 is entered at 1422 by Ms Girvan?

MS COLLINS: Yes.

MR. DAVID: You have an entry at 1443, that you are getting a call concerning Mr. Arar from the New York office?

MS COLLINS: Yes.

MR. DAVID: Do you recall what that call was about?

MS COLLINS: I believe she is giving me a "compte rendu" of what is happening, what the process, what she is doing, what she is undertaking at this point. She is following up with a voice message.

MR. DAVID: In addition to the CAMANT note, Ms Girvan is also following up on this issue with you by phone?

MS COLLINS: She wants to make sure that I see this message, absolutely.

MR. DAVID: At this time,

Ms Collins, there is a conference that is about to take place. We are now at Tuesday, October 8th, to situate you.

There is a conference that is going to be taking place in Washington, D.C. --

MS COLLINS: Yes, on the 9th and 10th.

MR. DAVID: I understand that you were the principal organizer of this conference?

MS COLLINS: Yes.

MR. DAVID: Could you just tell us what this conference was about, what you were doing, and who was attending from Ottawa and give us some background?

MS COLLINS: Sure. Myself, Helene Bouchard, and at the time also Janis Lawson --

MR. DAVID: So Helene Bouchard was in Washington, at the Canadian embassy in Washington?

MS COLLINS: Correct. And Janis Lawson was in our division. She had just returned from post and was waiting to have a position where she could fill.

The consular conference was normally held annually or biannually, and that was

to bring all the U.S. posts to discuss policies, to discuss changes, problems that they were experiencing.

So it was really to bring everybody on board and see what was the problem, what were the problems they were experiencing, that it be vis-à-vis citizenship, passport, transfer of offenders -- because we do deal with the transfer of offenders. We have four transfers yearly with the United States.

And also what was the other questions we had at that time. This was after 9/11. There was a lot of different things the Americans were changing all the time, so we wanted to be aware of what they were experiencing.

The level, I guess, of deportation cases were on the rise as well.

MR. DAVID: That affected Canadians?

MS COLLINS: Absolutely.

MR. DAVID: Do you recall if on the agenda of this conference -- first of all, the conference was for what duration?

MS COLLINS: It was for the two days, the 10th and the 11th.

MR. DAVID: Okay. And so you left Ottawa. Do you recall when you left?

MS COLLINS: I left early morning on the 9th.

MR. DAVID: And you returned to Ottawa when?

MS COLLINS: Around midnight on the 11th -- well, turning the 12th.

MR. DAVID: Do you recall if on the agenda items at this conference was a discussion about security cases?

You had experienced the "X" and "Y" scenario at the very least. Was that one of the topics that was discussed, the security cases --

MS COLLINS: It was raised with the State Department. That was something that was raised as well within everybody of the concerns.

MR. DAVID: As part of the new realities of the --

MS COLLINS: Absolutely.

MR. DAVID: -- geography in the United States?

MS COLLINS: Yes.

MR. DAVID: And do you recall if

there was any particular discussions about the treatment of people of Arabic descent in these deportation cases in the United States?

MS COLLINS: I know we raised the Arabic deportation, and I believe we were given an estimation they had over -- let's say, for instance, 300,000, and 6,000 were Arabs. So I do remember being given a statistical point.

But what exactly what they were, I don't remember.

MR. DAVID: So in attendance at this conference were all the Canadian consular personnel working in the United States?

MS COLLINS: Most of them were.

MR. DAVID: Most of them. And we understand that Ms Girvan was there from the New York office --

MS COLLINS: Along with --

MR. DAVID: Go ahead; sorry?

MS COLLINS: With Ms Lisiane LeFloch as well.

MR. DAVID: Exactly. From Ottawa, from JPO, who was there?

MS COLLINS: Myself.

MR. DAVID: And was Gar Pardy

there?

MS COLLINS: Yes, he was.

MR. DAVID: He was. Was there anybody else from the Ottawa office in attendance?

MS COLLINS: From Ottawa we had citizenship and passport individuals.

MR. DAVID: Okay. But from consular --

MS COLLINS: From consular, we were the only two.

MR. DAVID: So this is now very much part of your daily activities, your daily responsibilities, making sure the organization of this conference is going smoothly?

MS COLLINS: Yes.

MR. DAVID: Okay. I bring you now to tab 54, and this is an entry for Wednesday, October 9th. As you say, you had left early in the morning on that day to go to Washington.

It's a message where essentially Helen Harris, the JPE, is intervening. Could you give us a sense of why now JPE is involved?

MS COLLINS: Yes. It was arranged that while both Mr. Pardy and myself would be gone on a conference, Ms Harris would be the acting

Director General and also the JPE would also reply to the calls that I would normally receive. So JPE would now undertake my function.

MR. DAVID: So they are essentially stepping in for you?

MS COLLINS: Yes.

MR. DAVID: In your absence?

MS COLLINS: Yes.

MR. DAVID: Let's just go through this message because Ms Harris is making a suggestion to you while you are in Washington in terms of seeking information on Mr. Arar.

Mr. Arar is still missing?

MS COLLINS: Yes.

MR. DAVID: And Ms Harris makes a recommendation in the second paragraph:

"Contacted Nancy Collins/JPO in Washington on her cell and suggested that she put a call in to ..."

Who I understand is a U.S. official?

MS COLLINS: Yes.

MR. DAVID: Okay.

"Thrust of call would be that

we would like to take the opportunity of being in Washington to follow-up re info on subject and suggest a possible meeting this afternoon with Gar Pardy."

So it's quite obvious that this official is also in Washington?

MS COLLINS: Yes.

MR. DAVID: Okay.

"Without commenting on percentages of getting this meeting, it might put their feet to the fire about providing us with some information on his whereabouts and wellbeing."

And then we see that:

"Nancy agreed to place the call (provided the phone number) to ... office, as well as name of his assistant ... who has also been contacted on this case. Nancy is meeting Gar at the

Embassy at 2:00 p.m. and hopefully will have made contact in order to further discuss with Gar Pardy."

And now we see that this is actually being sent to you as a follow-up. It is "to" message, not an "info" message.

MS COLLINS: Yes.

MR. DAVID: Do you recall this conversation with Helen Harris?

MS COLLINS: Yes, I do.

MR. DAVID: And do you recall following up on this conversation?

MS COLLINS: Yes, I do.

MR. DAVID: Could you just give us some details about that.

MS COLLINS: I recall, because I was just arriving. I was still at the airport and I had just turned on my cell and it started ringing. I spoke with Ms Harris and I told her that I would be following up.

I immediately proceeded to my hotel. From the hotel, checked in and went to the embassy immediately. I placed a call, and I believe I also make a note eventually that I tried

calling the officials at that time. But we are now looking at lunchtime, so I was unable to reach anybody.

I also met with Mr. Pardy and Mr. Archambault at the embassy at two o'clock that afternoon and we did discuss the case.

MR. DAVID: Was this the first of what you heard about calling this particular official at this time? Was this the first reference to it, or had this been the subject of other CAMANT communications, if you recall?

MS COLLINS: I don't recall. It could have, but I don't recall.

MR. DAVID: Okay. And in terms of Helen Harris' suggestion, it was the first time that she suggested this to you?

MS COLLINS: Yes.

MR. DAVID: So this you inform Mr. Pardy of --

MS COLLINS: Absolutely.

MR. DAVID: -- as "demarche", as something to do?

MS COLLINS: Absolutely.

MR. DAVID: I bring you now to tab 55.

Before we look at this information, was Ms Girvan involved with this procedure also, to your knowledge, at this time?

MS COLLINS: Yes she was. I believe she was also trying to communicate directly with that official as well.

MR. DAVID: Okay. So there were two channels or two approaches, I guess you could say, to get this official to respond to the situation?

MS COLLINS: Yes. She was undertaking it and I was taking it from the other side, from Washington.

MR. DAVID: Both of you knew what each other's efforts were about?

MS COLLINS: Absolutely.

MR. DAVID: So we go now to tab 55, and this is an entry at 1538 for the Wednesday. We see that you leave a message with the Washington official?

MS COLLINS: Yes.

MR. DAVID: As well, it is indicated that Maureen Girvan is also awaiting for a reply?

MS COLLINS: That's right. I

recall that when we spoke with Mr. Pardy, we had a meeting with Mr. Pardy and Mr. Archambault, we immediately proceeded in calling Maureen to see if she had been successful. And I presume that as well, according to my notes, she was now at the airport. As you can see from here, she was on the phone with the individual who promised to get back to us shortly with a response.

So she had been successful in reaching someone, that individual.

MR. DAVID: Now, interestingly, this is an entry into the CAMANT system by yourself?

MS COLLINS: Yes.

MR. DAVID: Are you doing this from the Canadian embassy in Washington?

MS COLLINS: Yes, I am.

MR. DAVID: So you have access to CAMANT though you are in Washington?

MS COLLINS: Yes.

MR. DAVID: And again you mention that this case is shaping up just like the -- and is that a reference to one of our --

MS COLLINS: Mr. X.

MR. DAVID: To Mr. X. So this is

the second time you are making this point now?

MS COLLINS: Yes.

MR. DAVID: And you are also referring to the fact that there is a consensus that you would wait 24 hours before taking any action.

I am just wondering why you agreed to this 24-hour grace period?

MS COLLINS: It was agreed because, again, when we spoke with Ms Girvan, she was on the phone with the official and he had promised to get back. So we figured we will give a day and see if we are going to get a reply, if we are going to get a response. I believe that was the decision at that time.

MR. DAVID: To your knowledge was this a new approach, a new avenue being explored, as compared to what you had done in the past in any other case?

MS COLLINS: That's something we may want to ask Mr. Pardy, really, about the approach. I think there was a consensus that we would wait.

MR. DAVID: I am just talking about the actual official that you are trying to

get contact with?

MS COLLINS: We had never been in contact with that official previously, ever.

MR. DAVID: To deal with any other case?

MS COLLINS: No.

MR. DAVID: Okay. At this point there is Mr. Pardy who is in Washington, Ms Girvan is there, yourself are there. The three perhaps most involved people in the Arar fact line are present.

Are you speculating as to what has happened to Mr. Arar at this time?

MS COLLINS: Absolutely, we are very puzzled.

MR. DAVID: What is the scenario that you are now -- how do you explain what's happened?

MS COLLINS: I think everybody is very puzzled, is perplexed as to what happened, trying to get answers. We are placing calls. We are calling everybody that we know that could try to assist us in any way in trying to locate Mr. Arar.

I remember speaking with

individuals myself.

MR. DAVID: And is Syria in the possible scenarios that you are considering to explain the situation?

MS COLLINS: Not at that present time. We believed that he may have been moved to another facility. I can't tell you that it was not in our minds. We were just hoping not. But it was not really our main, I guess, target or our belief. We believed that he had just been moved to another facility, and that we were given the runaround again like we had been given --

MR. DAVID: So the operating assumption is that Mr. Arar is still in the United States?

MS COLLINS: At that present time, absolutely.

MR. DAVID: I understand that there was a cocktail reception at the embassy that evening, Ms Girvan -- Ms Collins, sorry.

MS COLLINS: That's okay.

MR. DAVID: Counterparts from the U.S. State Department had been invited, and it seemed that few showed up.

Did you make anything of the fact

that there were few show-ups there?

MS COLLINS: We asked questions. There is a few people that had confirmed their attendance at the cocktail that didn't show up, and that was one of the questions we were asking ourselves.

MR. DAVID: And did you make any sort of correlation to the fact that there was an unexplained absence of Mr. Arar at this time?

MS COLLINS: I can't say.

MR. DAVID: But you did find it strange that --

MS COLLINS: I think, yes.

MR. DAVID: -- that certain American guests were not present at this reception?

MS COLLINS: Right.

MR. DAVID: We go now to tab 57, Ms Collins. We are now on the next day, on Thursday, October the 10th. And this is a message that is quite significant.

Mr. Arar is confirmed to Maureen Girvan as not being in the United States. In other words, the U.S. official Ms Girvan had been seeking answers from was confirming to Ms Girvan

that Mr. Arar was no longer in the United States, and we see in this message that in fact certain efforts are being put on foot by DFAIT to see if we can't locate Mr. Arar in Syria.

MS COLLINS: Yes.

MR. DAVID: When do you get this information from Ms Girvan?

MS COLLINS: I think -- I am just trying to remember here. During the conference both Ms Girvan and Mr. Pardy would leave the conference on the side and place calls while the conference was still ongoing.

MR. DAVID: Okay.

MS COLLINS: So it could have been in between pauses, or breaks, or lunch that I would have been made aware at that time.

So I can't say exactly when was I informed.

MR. DAVID: So the avenue that Ms Girvan was trying to get answers from actually came through, and there is an official, a U.S. official, who did provide Ms Girvan with the confirmation that Mr. Arar was no longer in the country. And we've heard Ms Girvan's testimony in this regard.

It's also my understanding that separate sources that concern you directly also confirmed.

I know that -- and we are going to be very careful in dealing with this issue because part of this testimony will have to be heard in camera. There is an issue of protecting who provided you the information and the circumstances in which it was provided in order to protect certain sources that have been developed.

But I just want to get a sense from you, for the public record, that independently of Ms Girvan's confirmation, you are also obtaining your own confirmation from U.S. officials. And I just want to know what confirmation you are getting.

MS COLLINS: Both Helene Bouchard and myself met with an American official who had placed a call on our behalf.

MR. DAVID: And in response to this call, what information are you obtaining? What confirmation are you getting with regard to Mr. Arar?

MS COLLINS: That's very delicate, but it was confirmed the American official could

no longer speak to us.

MR. DAVID: Okay.

MS COLLINS: And we then asked the American official if it would be okay if we asked questions and if she can answer with a yes and a no without breaching any -- well, I guess she was still breaching it.

MR. DAVID: And through this process you got the confirmation that Mr. Arar was not in the United States?

MS COLLINS: Absolutely.

MR. DAVID: As I say, we will hear the rest of your testimony in that regard in camera.

MS COLLINS: Okay.

MR. DAVID: So let us move on now to tab 59. Again, this is an entry for Thursday, the 10th of October. This is an entry from Ottawa.

But it's confirming that:

> "JPD/Pardy has confirmed through Canadian sources that subject has been removed to Syria."

And this is again on the same

date?

MS COLLINS: Yes.

MR. DAVID: Do you know anything with regard to this confirmation that Mr. Arar is no longer in the United States and has in fact been removed to Syria?

MS COLLINS: As soon as I met with the American official, we immediately proceeded into alarming Mr. Pardy of the information that we had obtained, and Mr. Pardy proceeded on in trying to clarify and also obtain clarification and confirmation about the information we had passed on.

MR. DAVID: Mr. Pardy was successful in his seeking further clarifications?

MS COLLINS: I would presume so.

MR. DAVID: We will ask Mr. Pardy.

We can go now to tab 60, and this is an entry for 1731, coming from Madame Helene Bouchard.

MS COLLINS: Yes.

MR. DAVID: Essentially it's providing information to Helen Harris in Ottawa for an update on the Q&A.

There is a reference in the

headnote to the information that -- and the information that is being provided, it's in the second paragraph for the Q&A:

> "After further research, we were informed on October 10 by the American authorities that Mr. Arar had been removed from the U.S. due to an immigration infraction."

And from the headnote we see that this information was coming from JPD. So that's Gar Pardy?

Do you see that?

MS COLLINS: Yes.

MR. DAVID: There is also reference to CNGNY which was, I gather, Maureen Girvan?

MS COLLINS: Yes, it was.

MR. DAVID: We are going to have to change volumes here, Ms Collins, if we could go to tab 709 in Volume 8. Keep that one handy, though. Don't put that too far.

MR. WALDMAN: You will come back to that?

MR. DAVID: Yes.

This is the chronology that was prepared by the Department of Foreign Affairs, and I bring you to page 5 of the chronology.

It's a bit confusing because there are two reference numbers for pages. There is the 6 of 19 at the bottom right, and in the bottom middle there is also a page reference and they are not the same.

So if you could go to page 6 of 19.

MS COLLINS: Six of 19, okay.

MR. DAVID: Which is page 5 of the chronology.

MS COLLINS: Okay.

MR. DAVID: There is an entry here for the 10th of October, so it's the same day we are talking about.

It says:

> "Consul is advised by ... that Mr. Arar has been removed from the USA. He advises Consul that he is not able to provide any additional information."

The consul in question, to your

knowledge, is that Ms Girvan?

MS COLLINS: Yes, it is.

MR. DAVID: We go on. It says:

> "JPO is officially informed by the INS that, because of an immigration infraction, Arar was removed from the US to Syria, where he holds citizenship, as well as being a Canadian citizen and a long time resident of Canada. Later they indicate that Arar may be in Jordan."

Is the reference to JPO a reference to you or to Mr. Pardy?

MS COLLINS: That's to myself.

MR. DAVID: To you. So is this the independent source that you consulted that is providing this information?

MS COLLINS: Sure, yes.

MR. DAVID: We go now to October 15th, which is the Tuesday, and I bring you to your personal notes, Ms Collins.

MS COLLINS: Thank you.

MR. DAVID: It would be page 17.

And there are entries on both pages 17 and 18, if you could briefly go through those.

MS COLLINS: Well on 17 the message is I am coming in the morning. There are messages. The first one is not relevant to this case.

There is a message by Mr. Taufik Arar. I called him back at 9:19. The line was busy. And I spoke with him at 9:29 that morning again.

MR. DAVID: And do you know what that concerned?

MS COLLINS: It reflects, I believe, that while I was speaking with him I was also writing a CAMANT.

MR. DAVID: Okay. If we could go to tab 78, I believe that would be the reference?

Is that the conversation in question?

MS COLLINS: Yes, it is.

MR. DAVID: So you are simply confirming to Mr. Taufik Arar that your department has resorted to using a diplomatic note for both Syria and Jordan, seeking confirmation of Mr. Arar's presence?

MS COLLINS: Yes.

MR. DAVID: Now, interestingly enough, we do use here fairly quickly the means of the diplomatic note, if you have any comments in that regard?

MS COLLINS: Absolutely. I mean, just under the way that Mr. Arar had been deported, that was not a normal procedure. So technically that's the reason why we used it immediately: is that Mr. Arar, under normal procedures of deportation, should have been sent back to Canada where he had, I would presume, requested, and we had received official confirmation by giving consular access that he was indeed a Canadian national.

So by Mr. Arar being removed to a third country, we immediately proceeded in getting the diplomatic note out, sent immediately.

MR. DAVID: And they were sent to both Jordan and Syria?

MS COLLINS: I presume, yes.

MR. DAVID: That's what your message says.

It says that diplomatic note was sent to the Ministry of Foreign Affairs in

Damascus and Amman.

MS COLLINS: The reason why I am saying that is that while I was in Washington we did talk about the diplomatic notes being sent. So that was Mr. Pardy who was in communications with Ms Harris, for them to send out -- to advise the mission to send out a diplomatic note.

MR. DAVID: Can you tell us whether, to your knowledge, diplomatic notes are used on occasion to protest the treatment by a foreign country of the handling of a Canadian citizen's case?

MS COLLINS: Yes.

MR. DAVID: And was it considered whether a diplomatic note -- first of all, let me ask you: Was a diplomatic note sent by Canada to the United States on their handling of Mr. Arar's case?

MS COLLINS: I don't recall.

MR. DAVID: And was that considered as a possibility?

MS COLLINS: I know we discussed the potential of the diplomatic note, yes.

MR. DAVID: And do you know when that was discussed?

MS COLLINS: When this was all happening, absolutely.

MR. DAVID: In the end, to your knowledge, a diplomatic note by Canada was not sent to the United States?

MS COLLINS: I don't know.

MR. DAVID: You don't know?

MS COLLINS: No.

MR. DAVID: Coming back now to your notes for the 15th of October, I am at page 17. We left off at the last entry.

If we go to page 18 now, could you describe those entries?

MS COLLINS: Sure. I get a call from Mr. Ken England which I believe was the PRPA officer, which is the Public Affairs Relations officer at the Canadian Consul General in New York, who would normally be the person if we receive a media inquiry. He is calling me, wanting an update on the Q&A, which is the question and answer, and then I call him back. I am returning his call.

MR. DAVID: The next item in the chronology was tab 78, and I think we've already covered that in the detail I wanted to, and that

was your conversation with Mr. Taufik Arar on the Tuesday.

If we could go now, with your personal notes, for the 16th of October, I bring you to page 19.

There is a lot of black and there is little written, but there is a reference here to a meeting with ISI, CSIS/RCMP?

MS COLLINS: Yes.

MR. DAVID: And underneath is the name "Arar".

MS COLLINS: I can't see -- okay.

MR. DAVID: Is this the meeting in question that Mr. Solomon had requested a few days previous?

MS COLLINS: No. This is a meeting that was convened by Mr. Pardy after I returned from Washington.

MR. DAVID: Okay. And you attended this meeting?

MS COLLINS: Yes, I did.

MR. DAVID: And Mr. Pardy was also in attendance?

MS COLLINS: Yes, he was.

MR. DAVID: I would like to bring

you to three references to that meeting. Your notes have been redacted for concerns of national security confidentiality, but I would like to bring you to some public documents that concern this meeting.

MS COLLINS: Okay.

MR. DAVID: My first reference would be to tab 84.

First of all, for the record, this is a briefing note. Is this what --

MS COLLINS: I have never seen this.

MR. DAVID: Or it's a memo anyhow?

MS COLLINS: Yes, it is a memo.

MR. DAVID: It is dated the 16th of October, which is the date of the meeting, and it is going to the Minister -- MINA is the Minister of Foreign Affairs -- from Gar Pardy. GPD is Gar Pardy.

MS COLLINS: Yes.

MR. DAVID: If you could go to the bottom bullet at the very bottom of the page, I will read that to you:

It says:

"This afternoon a Globe and

Mail correspondent called the departmental press office and advised that he interviewed the American ambassador this afternoon. In summary, the American will be quoted ..."

And that would be Mr. Cellucci.

"... will be quoted as saying 'I think that the USINS authorities acted properly in deporting Mr. Arar to Syria. You should talk to your local people who may know the reasons.'"

MS COLLINS: Mm-hmm.

MR. DAVID: Again, this is just a reference to a press conference or press information.

And if you go to the next page, Ms Collins, it says:

"The RCMP indicated they will provide DFAIT with a response by close of business Thursday 16 October. At that time, we will provide a memorandum

with suggestions as to what could be done to deal further with this matter."

So my question is very simple to you, Ms Collins. There is a reference to the fact here that the RCMP is undertaking to provide DFAIT a response with regard to, I gather, the Arar affair.

Was that part of the discussions at this meeting on October 16th that you attended?

MS COLLINS: Yes.

MR. DAVID: I bring you now to the Garvie report that has been filed at Exhibit P-19.

MS COLLINS: Thank you.

MR. DAVID: If you could go to page 28 -- and again I am referring you to the public record of this meeting as I think it exists, and if I am misleading you please correct me in my understanding of events.

If you go to page 28 -- this is a report that was filed by a senior RCMP officer -- there is an entry for the 16th of October at the very top of the page, and I will read you the extract.

It says:

"A meeting hosted by DFAIT was attended by the RCMP and ... Superintendent Pilgrim represented the RCMP at that meeting. During the meeting a request was made by Mr. Gar Pardy, who was then the Director General of the Consular Affairs Bureau, DFAIT, for further information. Superintendent Pilgrim agreed to provide answers to the specific questions that Gar Pardy had asked on behalf of DFAIT."

Does this correspond to your recollection of this meeting?

MS COLLINS: Yes, it does.

MR. DAVID: And my last reference with regard to this meeting is at tab 104.

This is a memorandum that is signed by Mr. Pilgrim, whose name we had just reviewed or seen in the Garvie report. It is a memorandum that is dated the 18th of October, and it's a memorandum that is addressed to the liaison

officer of the RCMP at DFAIT, Mr. Richard Roy.

The memorandum begins at the very top with the following mention:

> "CID/NSOS has prepared the following response to specific questions posed by DFAIT concerning the deportation of Maher Arar to Syria."

And then we see a list of what I can count on this document to be seven questions that are answered by the RCMP. I just want to read you the questions. I am not concerned with the answers, just the questions, and if you could tell me if you recall these questions as being the relevant questions asked by Mr. Pardy.

The first was:

> "What information has been shared with the U.S. concerning Maher ARAR?"

MS COLLINS: Yes.

MR. DAVID: The second:

> "How did the U.S. become aware/interested in ARAR?"

Do you recall that?

MS COLLINS: Yes.
MR. DAVID: And the third:
"What triggered the U.S. decision to deport ARAR?"
MS COLLINS: Yes.
MR. DAVID: And fourthly:
"Did the U.S. approach Canadian authorities regarding the possibility of ARAR's deportation?"
MS COLLINS: Yes.
MR. DAVID: And the fifth, on the next page, is:
"What was the level of threat relating to ARAR's presence in the U.S.?"
MS COLLINS: Yes.
MR. DAVID: And the sixth:
"Is there a question of mistaken identity concerning ARAR's deportation/ detention?"
MS COLLINS: Yes.
MR. DAVID: And finally:
"Is ARAR being held in Jordan

as possibly suggested by the INS?"

And the INS I would understand is the U.S. INS?

MS COLLINS: Yes.

MR. DAVID: And you recall these as being the relevant questions that Mr. Pardy asked?

MS COLLINS: Yes.

MR. DAVID: Thank you.

We can go now again for the same date, October 16th, to tab 88. I think we see evidence in this CAMANT note of the transition from yourself to Myra Pastyr-Lupul, where you are requesting to make sure that Myra is included on all messages pertaining to the Arar case?

MS COLLINS: That's correct.

MR. DAVID: So we are shifting over now to Myra's desk.

MS COLLINS: I am now, yes.

MR. DAVID: Although Mr. Arar is not confirmed to be in Syria, the suspicion is at this time that he is there?

MS COLLINS: That's correct.

MR. DAVID: If we could go to your

personal notes on page 22, there is an entry for October -- well, I understand it to be October 31st with regard to Jonathan Solomon.

Could you speak to that, please?

MS COLLINS: October 23? I don't recollect. He may have called me for an update, and I told him that I was no longer the case officer involved in this case.

MR. DAVID: And for the record, Ms Collins, you were out of the office from October 17th to the 22nd?

MS COLLINS: Yes, I was.

MR. DAVID: Your personal notes for the 18th of November, if you could go to page 23, there is an entry at 12:02.

Do you have any recollection of that message?

MS COLLINS: There is a message, and I don't think that I return his call. I may have passed it on to Mr. Pardy or Myra Pastyr-Lupul.

MR. DAVID: If we could change volumes and go to tab 209, this is an entry for the 18th of November into the CAMANT system?

MS COLLINS: Yes.

MR. DAVID: You are simply uploading an article that appeared in the Ottawa Citizen?

MS COLLINS: I believe this was an e-mail that was sent to me, and I am just putting it into the case.

MR. DAVID: And is this a common practice?

MS COLLINS: Yes, it is.

MR. DAVID: We are now going to move ahead to June of 2003, and I bring you to tab 416, Volume 5. And if you could go to the third and fourth page, it's actually page 3 of 6 at the bottom -- actually, you should maybe go to page 4 of 6.

I just want to put on the record the issue of the description of claim that was being sent to DFAIT by the CCR, the Centre for Constitutional Rights, the context, Ms Collins: that there is civil action being contemplated on behalf of the Arar family in the United States at this time and input is being sought from the Department of Foreign Affairs, so I just want to put that on the record.

At tab 416 there is a message that

is coming to you. This is at page 3 of 6?

MS COLLINS: Yes, it is.

MR. DAVID: There is a message that is coming from Maureen Girvan to yourself as well a cc to Gar Pardy, where Maureen is raising concerns that she has with regard to DFAIT's contribution on this description of claim with regard to two issues. One is the privacy issue and, secondly, the issue of political sensitivity.

MS COLLINS: Yes, that's correct.

MR. DAVID: If we could now go to tab 436, I think Ms Girvan has sufficiently given us detail on that regard.

Tab 436, however, is unique to you, and it's your message to Myra on June 11th in this regard?

MS COLLINS: Yes.

MR. DAVID: And you are simply indicating to Myra that:

> "It would be greatly appreciated if you could look at the last couple of paragraphs of the attached file, since I was not involved in the dealings with

Syria. It would then be decided whether the information from our files should go to Mr. Arar's wife for her to give to the Center for Constitutional Rights (CCR), or whether we could give the information directly to Steven Watt at CCR."

And there is a follow-up at tab 434 on the same day. Again, this is an entry by you?

MS COLLINS: Yes.

MR. DAVID: It's addressed to Maureen, and you are just saying here's our input.

Had it been agreed at this point that on a tentative basis Mr. Pardy had instructed you to collaborate with the description of the claim?

MS COLLINS: Yes, he did.

MR. DAVID: Okay. And at tab 434, we see your input going to Maureen in this regard.

In effect, to your knowledge, DFAIT's participation in the description of claim was not sent in the end to CCR?

MS COLLINS: That's correct.

MR. DAVID: And can you tell us why it was not done so?

MS COLLINS: That was a decision that was taken by Mr. Pardy, and I believe that he didn't see anything -- I am not sure exactly what his response or his decision was based on, but I know he basically said we are not sending it. This is --

MR. DAVID: So in the end, there was no collaboration offered?

MS COLLINS: There was not.

MR. DAVID: At tab 435 we have the draft description of claim.

And simply for the record at tab 662 -- and we are going to have to change volumes, to Volume 7, thank you -- we simply have the confirmation in this document --

MS COLLINS: Excuse me. What was the tab?

MR. DAVID: It is tab 662. It's the very last tab.

Simply for the record, Ms Girvan was explaining that in the end DFAIT's input was not communicated to Mr. Watt and to CCR.

MS COLLINS: Yes.

MR. DAVID: The last tab I would like to deal with you is tab 697, which is in Volume 8. It is an entry for November 7th, 2003.

It concerns the issue --

MS COLLINS: Sorry, what was the tab again?

MR. DAVID: I am sorry. It is 697.

MS COLLINS: Thank you. Yes?

MR. DAVID: It's through e-mail correspondence between Maureen Girvan and Dave Dyet, and the issue is Maureen Girvan is explaining the circumstances for not sending a diplomatic note at the time it was contemplated, going back to October of 2002.

So Ms Girvan is giving additional input in regard to the decision of not sending the dipnote.

You are simply adding something here -- no, I shouldn't say that you are adding it. There is a reference to your involvement in this regard. Let's just read that message. It's at the bottom.

It would be the first message,

November 7, 2003, at 12:18, and it says the following:

> "Have sent you a faxed copy of discussions on possible dipnotes with WSHDC and then Nancy's response, which show that I raised the possibility of the dipnote with WSHDC (they in fact did a draft and were readying it)..."

And that is where my question lies: To your recollection, to your knowledge, Ms Collins, was a dipnote prepared, a draft dipnote prepared at this time?

MS COLLINS: To my knowledge, no.

MR. DAVID: Okay. Those are my questions. Thank you very much.

THE COMMISSIONER: Mr. Waldman? Take your time.

MR. WALDMAN: I need the podium.

THE COMMISSIONER: Get organized there. Just take your time. Mr. David can help you. Here's the other one.

--- Pause

MR. WALDMAN: Before I start,

Mr. Commissioner, I just wanted to raise one matter.

There were one or two issues that emerged from the testimony that we had not been aware of, and during the break Mr. Arar called me, because he is at home watching via the Internet.

THE COMMISSIONER: Right.

MR. WALDMAN: And so I am going to have to consult with him about those. But I can start my cross-examination now.

THE COMMISSIONER: Absolutely, yes.

MR. WALDMAN: And then at some point I am going to have to break before I finish.

THE COMMISSIONER: Sure. No difficulty with that at all. Take whatever time you need to get instructions.

MR. WALDMAN: Right. It was just one or two matters that were not --

THE COMMISSIONER: Now, there is a chap here that was -- I beg your pardon?

--- Off microphone / Sans microphone

THE COMMISSIONER: Please do.

--- Pause

THE COMMISSIONER: Mr. Baxter, if

you need one, you can probably use the one behind you there.

MR. BAXTER: Thanks, Mr. Commissioner.

THE COMMISSIONER: We expect silence from that table.

--- Laughter / Rires

MR. WALDMAN: Actually, I thought Mr. Baxter was going to go before me.

EXAMINATION

MR. WALDMAN: Anyway, I am going to deal first with your experience, and I just want to clarify a few points about your resume, which is P-81.

Do you have that in front of you?

MS COLLINS: No, I do not.

Thank you.

MR. WALDMAN: Am I right to understand from your resume that you only started working with DFAIT in 1999?

MS COLLINS: I was employed at the Canadian Embassy in Beijing and doing the functions of consular officer, but I was a local engaged staff. I didn't enter into Foreign Affairs until 1999.

MR. WALDMAN: If we go back at your experience at Beijing, you start -- am I correct you told us that you are a spouse of a Foreign Affairs officer.

Is that what happened?

MS COLLINS: I was the spouse of a Canadian that was posted to --

MR. WALDMAN: Right. And am I correct in understanding it's not uncommon for spouses of Canadian officers to be hired as locally engaged staff?

MS COLLINS: That's correct.

MR. WALDMAN: So you didn't go through any competition or anything to --

MS COLLINS: Yes, I did.

MR. WALDMAN: You did.

MS COLLINS: Absolutely.

MR. WALDMAN: So you went through a competition before you left or when you --

MS COLLINS: No. It's competitions that are held at the embassy.

MR. WALDMAN: At the embassy.

MS COLLINS: Yes.

MR. WALDMAN: So this is a competition at the embassy to be hired --

MS COLLINS: An interview.

MR. WALDMAN: Right, an interview.

MS COLLINS: Yes.

MR. WALDMAN: Right. But it's not the same rigorous process normally one would get in order to become a DFAIT officer?

MS COLLINS: That's correct.

MR. WALDMAN: So your functions at the embassy were, between July 1996 and until June 1999, as a locally engaged officer working, doing functions of an assistant to a consular officer.

Is that correct?

MS COLLINS: Yes.

MR. WALDMAN: So your first functions were assisting in the Immigration Department?

MS COLLINS: Correct.

MR. WALDMAN: And then after that you did some administrative work for CIDA for a period of time, for two years?

MS COLLINS: Yes.

MR. WALDMAN: And then you briefly assisted on the Prime Minister's visit. And after that, in the period just before your departure, for a period of about one year, you were

interviewing people applying for passports. So this is more work --

MS COLLINS: One of my functions. I was a Consular Program Officer at the embassy. So one of my functions was dealing with passports, dealing with medical issues, citizenship. I was just not dealing strictly with passports.

MR. WALDMAN: I am correct in assuming you didn't become a fulltime employee of DFAIT until August of 1999?

MS COLLINS: Correct.

MR. WALDMAN: And in order to become a fulltime employee, did you have to go through some kind of different hiring process?

MS COLLINS: Yes, I did.

MR. WALDMAN: Did you have to write some kind of exam?

MS COLLINS: Yes, I did.

MR. WALDMAN: And then you were formally hired?

MS COLLINS: Yes, I was.

MR. WALDMAN: And are you now a fulltime employee of DFAIT?

MS COLLINS: Yes, I am.

MR. WALDMAN: On a permanent

contract?

MS COLLINS: No, I am independent -- indeterminate employee.

MR. WALDMAN: So what's the difference between an indeterminate and --

MS COLLINS: That means you are not on contract; you are fulltime.

MR. WALDMAN: Fulltime. That's just another way of saying you are a permanent employee?

MS COLLINS: I am a permanent, yes.

MR. WALDMAN: So then I am correct in assuming that you have been only a permanent -- at the time of Mr. Arar's case, you had been a full-time employee of DFAIT for about three years?

MS COLLINS: Correct.

MR. WALDMAN: Can I ask you to go to Exhibit P-49? That's Ms Girvan's CV.

MS COLLINS: Thank you.

MR. WALDMAN: Are you familiar with Ms Girvan's CV?

MS COLLINS: No, I am --

MR. WALDMAN: Maybe you can just take a second to look at that.

MS COLLINS: Thank you.

--- Pause

MR. WALDMAN: It would appear from this that Ms Girvan became a fulltime employee of DFAIT in 1993. Is that correct?

MS COLLINS: I would presume so. You would have to ask Ms Girvan directly.

MR. WALDMAN: I think she gave us that evidence.

In 1993/1994 she was doing the same function that you were doing?

MS COLLINS: I assume so, yes.

MR. WALDMAN: Consular Officer, JPO U.S. That is your function?

MS COLLINS: Yes.

MR. WALDMAN: And 1994 to 1997 she was doing the same function as Myra Lupul.

Is that correct?

MS COLLINS: Correct.

MR. WALDMAN: Then she became a consular manager. Is that a fairly senior position of responsibility as a manager of the consul?

MS COLLINS: She was now at the embassy in Rome, which is totally different

titles. She was now in charge of the consular program at the embassy in Rome.

MR. WALDMAN: Right. Okay.

So is it fair to say, comparing your experience to Ms Girvan's, Ms Girvan had considerably more experience than you?

MS COLLINS: Ms Girvan had been -- yes.

MR. WALDMAN: And she had done the same function as you, albeit in 1993 to 1994.

Is that fair to say?

MS COLLINS: That's fair to say.

MR. WALDMAN: Now, if I understand Ms Girvan's evidence correctly, she told the Commissioner, however, that the hierarchy was there was a dual hierarchy. She reported both to the Consul General and also to you in terms of seeking advice and getting instructions.

Is that correct?

MS COLLINS: What Ms Girvan said is that she would answer to Mr. Laporte and then eventually all the way to the Consul General, and then she would answer to headquarters, that including myself and Mr. Pardy as well.

MR. WALDMAN: So you were

directing her with respect to her action on files that came to your attention? That is how the hierarchy works.

Am I correct?

MS COLLINS: Normally when the message -- that's right, it comes to my desk and then we -- yes.

MR. WALDMAN: Doesn't it seem strange to you that given the fact she had had considerably more experience you would be giving her direction with respect to consular matters?

MS COLLINS: That is something you would have to ask Mr. Pardy about. My function of my duties, my responsibilities, were to cover all of the United States, which I did. What happens is that when we had detained -- or any files, the protocol was that the mission would advise JPO at headquarters.

MR. WALDMAN: Right. And you were the ones who were supposed to give -- according to Ms Girvan, she repeatedly said that she would get instructions from you on that.

MS COLLINS: From myself. That is correct.

MR. WALDMAN: So you were the one

who was giving the instructions?

MS COLLINS: Not the only one, but I was, yes.

MR. WALDMAN: Right. Okay. And your immediate superior was Mr. Carisse?

MS COLLINS: Mr. John Carisse.

MR. WALDMAN: Carisse. Okay. he is the head of case management?

MS COLLINS: Correct.

MR. WALDMAN: He reports to Mr. Pardy?

MS COLLINS: Yes.

MR. WALDMAN: Was he in Ottawa during this -- I'm focusing now on the time between September 26th when Mr. Arar arrived in New York and October 10th when you found out he had been deported to Syria.

Was Mr. Carisse in Ottawa during that time?

MS COLLINS: He was in Ottawa. Was he at the office? I don't recall.

MR. WALDMAN: I didn't notice you mentioning him in any of your comments with Mr. David.

Did he have anything to do with

the Arar file, as far as you can recall?

MS COLLINS: I don't recollect.

MR. WALDMAN: You don't recollect that he did, or you don't recollect?

MS COLLINS: I don't know if he was involved in Mr. Arar's file. I would presume he was, but I don't remember.

MR. WALDMAN: Okay. But did you have any direct conversations with him about the Arar file that you recollect?

MS COLLINS: I presume I would, yes. I can't remember. This is three years ago. I would presume that, yes, I would have consulted with Mr. Carisse, absolutely.

MR. WALDMAN: But you are not even sure if he was there during that time?

MS COLLINS: I don't remember. This is three years ago. I really don't remember.

If he was there I would have spoken with him, or I would have spoken with Helen Harris or Mr. Pardy.

MR. WALDMAN: So what do you remember, if you don't remember that. You remember what is in your notes.

MS COLLINS: I remember dealing

with higher up than myself, absolutely. If Mr. Carisse wasn't there, if Mr. Pardy wasn't there, I would go down who was the acting, and that would be Helen Harris.

If Mr. Pardy was there, then we had an open-door policy; we would walk in and we would talk about the case openly with Mr. Pardy and seek guidance, seek advice. That was the procedures that we undertook.

MR. WALDMAN: I understand. So the normal procedure was you would talk to whoever was there.

But in terms of your specific recollections, we have gone through the notes, we have gone through the CAMANT file.

MS COLLINS: Yes.

MR. WALDMAN: So are you telling me that your recollection is restricted to what is in the notes and what is in the CAMANT files?

MS COLLINS: No. What I'm saying is that you are asking me about Mr. Carisse, about the recollection of me dealing with Mr. Carisse. I don't remember that point.

MR. WALDMAN: You don't remember if you dealt with him or not?

MS COLLINS: I don't remember. No, I don't remember that point.

MR. WALDMAN: But you would agree with me there is no reference in CAMANT notes or in your notes to having any conversations with him?

MS COLLINS: If they are not there, then, no.

MR. WALDMAN: Presumably, did you put everything that was important in your notes into the CAMANT notes?

MS COLLINS: I tried, certainly.

MR. WALDMAN: I also want to clarify with respect to Mr. Pardy, because I am a bit confused as to when he came back on the picture and I wanted to know if you could help me with that.

We know that there is a phone call from Ms Girvan. I think she testified she got a message when she called Mr. Pardy that he was out of town and that Ms Harris was acting.

MS COLLINS: Yes.

MR. WALDMAN: You recall that?

MS COLLINS: Yes.

MR. WALDMAN: That was, I believe,

on the 1st?

MS COLLINS: Yes.

MR. WALDMAN: On the 4th --

MS COLLINS: The 1st or 2nd, I'm not sure.

MR. WALDMAN: The 1st, yes. That was on the 1st, which was the Tuesday.

You tell us now, it was added to your notes, that there was a meeting with Mr. Pardy on the 4th?

MS COLLINS: Yes.

MR. WALDMAN: Okay. Do you recall any other conversations prior to the 4th that you had with Mr. Pardy, because there is nothing that I can see in any of the other notes but I wanted to know if there was anything else?

MS COLLINS: I believe Mr. Pardy may have returned to the office on the 3rd and I recall meeting with him in the morning, because he had spoken with Ms Harris, who had totally fully briefed him on the case. I recollect vaguely that we did speak about the case because he told me that he was aware of the case.

MR. WALDMAN: That was on the 3rd or the 4th?

MS COLLINS: The 3rd, I believe.

MR. WALDMAN: But you don't have any note of that?

MS COLLINS: I don't have access to my notes, so I don't --

MR. WALDMAN: Because we have looked through these very carefully and we don't see any reference to Mr. Pardy being on the scene until the 10th in fact in any of the CAMANT notes, unless someone can point me to something else. We had been under the impression that he wasn't in fact there until the 10th.

So I'm just trying to clarify from you for sure that he arrived on the 3rd or the 4th.

You don't know. Okay. We will check with Mr. Pardy. I'm sure he can assist us on that point. Okay.

I want to just clarify then your responsibilities.

You give instructions to Ms Girvan about difficult consular cases?

MS COLLINS: That is correct.

MR. WALDMAN: Okay. And to all the other people in the other offices throughout

the United States?

MS COLLINS: Yes.

MR. WALDMAN: Right. And you can give the instructions yourself or, in fact, you can decide to consult with one of your superiors.

Is that correct?

MS COLLINS: That's correct.

MR. WALDMAN: Up the chain of command the first person would be Mr. Carisse?

MS COLLINS: Yes.

MR. WALDMAN: So he would be the first person you would go to?

MS COLLINS: Yes. If he is not there I go directly to Mr. Pardy.

MR. WALDMAN: And you can go directly to Mr. Pardy?

MS COLLINS: Yes.

MR. WALDMAN: Could you help us out, are all the offices situated more or less in the same area?

MS COLLINS: I am just a couple metres away from Mr. Pardy's office, so we are on the same level in the same area.

MR. WALDMAN: All the case management offices for all the consular offices

around the world --

MS COLLINS: Yes.

MR. WALDMAN: -- as you said, there are 12 or --

MS COLLINS: Twelve, yes.

MR. WALDMAN: You are all situated in the same area?

MS COLLINS: Yes, we are.

MR. WALDMAN: And then you have access to both Mr. Carisse and Mr. Pardy?

MS COLLINS: Correct.

MR. WALDMAN: Would there any reason you might choose going to -- would you normally go to Mr. Carisse first and then to Mr. Pardy, or would it depend on the nature of the case, or would there be some cases where you go to Mr. Carisse and some cases you go to Mr. Pardy?

MS COLLINS: I don't think there was some procedures of just always going to Mr. Carisse. It was an understanding if Mr. Carisse was there and could help us, or we went directly to Mr. Pardy. That was always an open door. So if you wanted to go to see Mr. Pardy directly instead of going to Mr. Carisse, you went to see Mr. Pardy.

MR. WALDMAN: Okay. But would you normally go to Mr. Carisse and only go to Mr. Pardy if it was more complicated, assuming they were both there?

MS COLLINS: Not necessarily.

MR. WALDMAN: No?

MS COLLINS: No.

MR. WALDMAN: Why would you go to one over the other?

MS COLLINS: It all depends. Mr. Pardy is very -- to me he is considered an expert in consular services. If he was in his office, then I would ask him for a moment to seek guidance or advice. If he said, "Yes, I have a moment to spend with you and let's discuss," then I would discuss the case with him.

MR. WALDMAN: My sense then you are telling me, with all due respect to Mr. Carisse, given Mr. Pardy's great expertise if you had the opportunity of discussing a complicated case you would prefer to go to Mr. Pardy as opposed to Mr. Carisse?

MS COLLINS: Depending on the nature, yes.

MR. WALDMAN: So if I understand

you correctly then, you would normally -- I mean, what percentage of the cases would you have to speak to Mr. Pardy about as opposed to just dealing with him by yourself? You told him there was 75 e-mails a day, 30 to 40 phone calls?

MS COLLINS: Mm-hmm.

MR. WALDMAN: Were you in Mr. Pardy's office every day, or was it rather unusual for you to get a case that you would need his guidance on?

MS COLLINS: It all depends at which time, it depends on which case, the nature of the case. That's how it depends. So I can't tell you honestly how many times or every day. I didn't go to Mr. Pardy's office every day.

MR. WALDMAN: Would you go once a week to see him about a case?

MS COLLINS: That could very well be.

MR. WALDMAN: Okay. So on average in a month?

MS COLLINS: In a month? Maybe -- it depends on the case. So I can't honestly tell you that one month I would have gone to see him twice and another month I would have been there

every day. I mean, it all depends on the case.

MR. WALDMAN: If you had a case like Mr. Arar you might be in the office every day?

MS COLLINS: That's right. That's right.

MR. WALDMAN: But it would all be with respect to one case. In other words, when you got a really complicated case you might be in his office every day?

MS COLLINS: That's right. Depending on the complexity of the case, yes.

MR. WALDMAN: Maybe it would be more helpful -- because I'm trying to get a sense of how often -- what percentage of the cases you would need to get --

MS COLLINS: In Mr. Arar, everything that we did with Mr. Arar, when we drew up that it was becoming a high profile case, if it wasn't Mr. Pardy it was Ms Harris, and I believe Mr. Carisse, if he was there, I would have consulted with him in Mr. Arar.

I can only speak to you in Mr. Arar right now.

MR. WALDMAN: Okay. I'm just

trying to get an understanding because this would be relevant to where I'm moving in a minute, as to what -- like what percentage of the cases you would have to consult Mr. Pardy on.

MS COLLINS: Out of the 1,700 cases?

MR. WALDMAN: Right.

MS COLLINS: A very few percentage.

MR. WALDMAN: A very small percentage?

MS COLLINS: Yes, depending on, again, the nature of the charges, the nature of the cases, and the sensitivity or the high profiles.

MR. WALDMAN: So out of 1,700 cases you are dealing with, would you have consulted him on 20, 30? I'm just asking for a rough estimate.

MS COLLINS: I mean, I can't give you a number.

How many cases? Mr. Pardy was very, very well aware of many cases because you could see he was cc'd, carbon copied, on a lot of cases.

It would depend. If we were dealing with a death penalty case, we were dealing with a sensitive nature case, absolutely Mr. Pardy would have been informed.

So I can't honestly tell you that out of 1,700 cases it would be 12 cases. I cannot honestly tell you. But I can tell you that it all depended on the nature of the case.

MR. WALDMAN: Okay. So from your point of view most of the routine cases you could handle and it would be an exception where you would have to go to Mr. Pardy.

Is that fair?

MS COLLINS: That's right.

MR. WALDMAN: Okay. In Mr. Arar's case, when was it the first time you felt the need to consult with -- you became aware of the case on the 1st. You spoke to his brother.

When was it that you felt the need to first consult with your superior about the case?

MS COLLINS: I believe on October 2nd.

MR. WALDMAN: On the 2nd. So almost right after you got involved with the case?

MS COLLINS: Yes.

MR. WALDMAN: Okay. I asked you that because in evidence that you gave in examination-in-chief you said to Mr. David that at the beginning it was an ordinary consular case of arrest, but after you lost him, after he was deported and you didn't know where he went, it became a higher profile consular case.

That is what you told Mr. David, is that correct?

MS COLLINS: If you recollect I guess that is what I said.

MR. WALDMAN: I'm trying to understand how that is consistent with what you are telling me now, because you told me it would be only in a very exceptional case that you would consult with your higher-ups, and yet you are telling me that on the 1st you became aware of a case and already the next day you thought you consulted.

MS COLLINS: That's right.

MR. WALDMAN: So is it not fair to say that it became very clear very quickly to you that this was not a normal case?

MS COLLINS: No, I -- no. When I

sought guidance the first time it was because of the message of my conversation with Mr. Taufik about the mother-in-law being threatened. That's when I'm talking to you that the first time I spoke with my superior as I had no idea what this was coming from.

So it was nothing to do with Mr. Arar being deported or anything like that. My first initial call with the superiors was, here I have a case of an arrest/detention in New York. I speak with the brother. The brother now tells me that Mr. Arar's mother-in-law is being threatened. I don't understand this.

So I would believe, if you were in my same position, you would have done the same thing; you would have sought guidance by your superiors in trying to understand this.

Because I asked Mr. Taufik if he could elaborate. If you could see from my notes, the conversation lasts less than a minute.

MR. WALDMAN: Okay. That's fine.

We will come back to that. That is one of the issues I am going to have to come back to after lunch.

MS COLLINS: That's fine.

MR. WALDMAN: When was the next time you consulted your superiors?

On the 2nd you told us you had a meeting with Pardy.

MS COLLINS: I believe the 2nd. I believe the next time I saw Mr. Pardy -- I remember the conference call on the 4th.

MR. WALDMAN: So by the 4th already, prior to Mr. Arar's deportation, there was already a conference call taking place with Mr. Pardy involved with other individuals --

MS COLLINS: As requested by Ms Girvan, yes.

MR. WALDMAN: Yes?

MS COLLINS: So I went in his office as requested by Ms Girvan. She wanted to talk about the case, her visit, the upcoming visit of the attorney. I believe that was --

MR. WALDMAN: Was this normal, unusual --

THE COURT REPORTER: I'm sorry. You said "I believe" --

MS COLLINS: Sorry, I don't know exactly.

MR. WALDMAN: Sorry.

THE COMMISSIONER: Mr. Baxter...?

MR. BAXTER: Mr. Commissioner, could I call the witness' attention as well to tab 23.

Sorry for this awkward microphone arrangement.

MS COLLINS: I'm sorry.

--- Pause

MR. BAXTER: I think that is clear that on October 2nd the superiors were involved in an e-mail chain there.

--- Pause

MR. WALDMAN: I'm just trying to put together two things you are saying and I'm suggesting to you that it is not very consistent.

On the one hand, you are telling us that it only became a higher profile consular case after you lost him.

On the other hand, you told us that you didn't normally consult with your cases except on a very small percentage of the more difficult cases?

MS COLLINS: Mm-hmm.

MR. WALDMAN: We have just now learned that there are e-mails on the 2nd to

your superiors and on the 4th there is a conference call.

How usual was it for there to be a conference call about a file? How many conference calls have you had in the last year involving the Canadian Consulate, the Washington Consulate, Mr. Pardy and yourself?

MS COLLINS: Today compared to back then, back then we used to have frequent conference calls on different cases that were ongoing at that time.

So I cannot compare what I'm doing today to what I was doing in 2002.

MR. WALDMAN: Okay. In 2002, how common was it for you to have a conference call on a file? Was it --

MS COLLINS: We have had several conference calls, yes.

MR. WALDMAN: "Several"?

MS COLLINS: "Several".

MR. WALDMAN: But that suggests to me it is not very common.

It wasn't very common?

MS COLLINS: It wasn't common, but again it depended on the case.

MR. WALDMAN: So you are telling us now that you had a conference call, which was not very common, on the 4th, that you --

MS COLLINS: I'm not saying it is not common. It happened, but it depended on the case, on the request of the mission. If the mission -- like Ms Girvan has requested, she is asking for the conference call.

MR. WALDMAN: That's right.

MS COLLINS: So we are doing the conference call.

It depends on the cases. If we are dealing with a sensitive case, we are dealing with a case where the attorney wants us to participate or to have a say, then, yes, we establish a conference call. But this is at the request of Maureen that we are doing this.

MR. WALDMAN: Right. Mr. Pardy and yourself are involved at a very early stage in this process, and you told us that it was very unusual for Mr. Pardy to be consulted --

MS COLLINS: In normal cases.

MR. WALDMAN: In normal cases?

MS COLLINS: That's right.

MR. WALDMAN: Exactly. And I'm

putting to you --

MS COLLINS: Sorry. Ms Girvan, that night previously, had spoken with Mrs. Harris, so she initiated the process of having the Director General or the Acting General involved, not myself.

MR. WALDMAN: Okay --

MS COLLINS: So it was already initiated by New York, not by me.

MR. WALDMAN: I still don't understand the distinction. The point I am trying to make was: Was it not apparent by the 3rd or the 4th that this was not an unusual case but this was a very serious case, given the steps that were being taken, including the arrangement of a conference call?

MS COLLINS: The conference call was to discuss the case.

MR. WALDMAN: Right. I am just asking you a simple question. I want a yes or a no answer, if you can give me one.

Is it not fair to say that by the 3rd or the 4th it was apparent to you that this was a complex case, not a simple case?

MS COLLINS: It could have -- yes.

MR. WALDMAN: It was apparent.

So in other words, your evidence that you gave to Mr. David, that it was only after the deportation that you realized that this was a high-profile case, is not correct?

MS COLLINS: I don't recall saying that. But what I am saying is that the escalation -- I mean, the fact of the matter is that when the case of Mr. Arar really grows to the high profile was when we lost him. Absolutely.

MR. WALDMAN: Well, I am suggesting --

MS COLLINS: We were dealing with -- we were dealing with a sensitive case. I am not saying that we didn't treat this as a high profile. But it wasn't at that time -- it wasn't at the same level as what we undertook it when we lost him. That's what I am saying.

MR. WALDMAN: Okay, I understand. I understand. So I can pause at this.

Would it be fair to say that it became very clear quite early that this was a very complex case, but it became an extremely urgent case when you lost him? Is that a fair statement?

MS COLLINS: I can't say that it

was a complex case at the beginning. The contemplation of a diplomatic note -- I think we have answered this -- that the similarities of between Mr. X, Mr. Y, and Mr. Arar, okay, was that MDC, at the 9th floor, okay? So those are the similarities.

The diplomatic note, we decided not to send them is because we knew where he was. We had been given -- we were going to be given access. We knew where he was. So this is what I am saying. The complexity is when you are having a case where you don't have any information, you don't have access to that individual. That's a complex.

At this point is we are -- it's a presumption. It was a presumption at that --

MR. WALDMAN: Well I am going to suggest to you that there were other factors that you had in your file which clearly suggested that this was not a normal case. I mean, aside from the fact that it seems apparent that it wasn't because you were consulting with Mr. Pardy and you told us you only did that -- I want to remind you of the e-mail that Ms Girvan sent, in which she told you of her conversation with the superior

official at INS in which he said, go to the ambassador -- get your ambassador to go to DOJ.

Did I understand you correctly when you said that you had never heard such a suggestion ever being given before?

MS COLLINS: That's right.

MR. WALDMAN: All right. So doesn't that immediately suggest to you that this is an extremely unusual case, when a superior at INS is telling you to contact the ambassador in Washington?

Doesn't that, in and of itself -- something that you had never heard of before -- suggest to you that this is a very unusual case?

MS COLLINS: Depending on -- yes, because Mr. Arar was being alleged at that time, and, of course, anybody being alleged of being a member or anyone is serious, absolutely. But it doesn't mean that we would go right away with the ambassador to contact the Department of Justice.

MR. WALDMAN: Well, okay. The conversation with INS I think took place before you learned the allegations of Mr. Arar being a member of al-Qaeda. That only came to your knowledge when Ms Girvan visited Mr. Arar on the

3rd.

MS COLLINS: Okay.

MR. WALDMAN: The e-mail to Ms Girvan about her conversation with the gentleman at INS was on the 2nd.

MS COLLINS: I would need to go back to the tab of that series, please.

MR. WALDMAN: It's tab 11.

MS COLLINS: Okay.

MR. WALDMAN: The third paragraph.

MS COLLINS: Thank you.

--- Pause

MS COLLINS: Yes.

MR. WALDMAN: Okay. So you told us that you never heard anyone ever suggest to any another consular official that our ambassador in Washington should contact the Department of Justice.

Is that correct?

MS COLLINS: That's correct.

MR. WALDMAN: So this was extremely -- how did you react? Were you surprised?

MS COLLINS: I was surprised.

MR. WALDMAN: Did you take this

information and discuss it with Mr. Carisse? Mr. Pardy wasn't there; right?

MS COLLINS: No. Following this, MS Girvan spoke with Helen Harris that evening, and they did discuss this case. They did discuss the seriousness. They did discuss the whole issue of the conversation that they had had.

MR. WALDMAN: Okay. And did you discuss it with MS Harris yourself?

MS COLLINS: I believe the next day, yes.

MR. WALDMAN: Okay. Do you recall the contents of your conversation with MS Harris? I don't see it reflected in any CAMANT --

MS. COLLINS: No. We discussed about the whole topic of this and that we would proceed in to finding Mr. Arar and trying to get access to him.

MR. WALDMAN: So do you recall discussing with MS Harris the unusual nature of this suggestion that our ambassador in Washington should contact the Department of Justice and what was her response?

MS COLLINS: I believe we did, but I don't remember exactly what was said, what

was --

MR. WALDMAN: So the bottom line was at this point you decided to hold off on the dipnote to see if you could get access to Mr. Arar?

MS COLLINS: Correct. We didn't want to freeze any communication.

MR. WALDMAN: And the idea of following up with the suggestion of getting the ambassador to talk to the Department of Justice, what happened with that suggestion? Did anyone ever follow up on that, to your recollection?

MS COLLINS: I don't recollect about the ambassador with the Department of Justice. I recollect that our embassy in Washington did speak with the Department of Justice.

MR. WALDMAN: Are you aware if a conversation actually took place between the embassy and the Department of Justice?

MS COLLINS: I do recollect, yes. I do remember there was a call placed.

MR. WALDMAN: Okay. I think MS Girvan testified, and over lunch I will try and see if I can find her evidence on that point.

MS COLLINS: Sure. I believe it was Helene Bouchard that made that call.

MR. WALDMAN: So your recollection is that there was a call from the Washington embassy to the Department of Justice?

MS COLLINS: That's right, I do.

MR. WALDMAN: And you don't recall what the nature of that -- what the result of that conversation was?

MS COLLINS: I don't. No, I don't.

MR. WALDMAN: So I want to go on to -- I don't have a watch. Do we know?

THE COMMISSIONER: Quarter to one.

MR. WALDMAN: I could try and finish this one area before we break for lunch.

THE COMMISSIONER: That would be fine.

MR. WALDMAN: I will try to deal with the issue of the seriousness of the case.

You said in your examination-in-chief that you have dealt with terrorism cases; right?

MS COLLINS: Yes.

MR. WALDMAN: People where there's

the allegation.

We know on the 3rd that MS Girvan came back and said that Mr. Arar had an immigration paper, which we will discuss later, in which the allegation was that he was a member of al-Qaeda; right?

MS COLLINS: Mm-hmm.

MR. WALDMAN: So by this time you knew that this was an extremely serious case; is that fair? He was on the 9th floor of the MDC.

MS COLLINS: That's correct.

MR. WALDMAN: Aside from "X" and "Y", how many other people had you been involved with on the 9th floor of the MDC?

MS COLLINS: I am not exactly -- those were the only three.

MR. WALDMAN: Mr. Arar, "X" and "Y".

MS COLLINS: That's correct.

MR. WALDMAN: Is it not fair to say, that in and of itself, you have a detainee in this very secure ward for people only -- dealing with people that have allegations of terrorism --

MS COLLINS: I had other inmates in other States, so they wouldn't have been held

in MDC. They would have been held in the same type of institution but in a different State.

MR. WALDMAN: How many other people?

MS COLLINS: There was about four cases, three to four cases.

MR. WALDMAN: Three to four cases outside of the two -- so seven all together; is that fair?

MS COLLINS: About seven to eight, yes.

MR. WALDMAN: Okay. So we are now talking -- you said you were dealing with 1700 cases we are had -- and this is cumulative, or at the time of Mr. Arar's case?

MS COLLINS: I didn't hear you, sorry.

MR. WALDMAN: Sorry. It gets a bit difficult when we are talking about your experience over a period of years.

At the time you were dealing with Mr. Arar, you had "X" and "Y" and Mr. Arar. Did you have any other terrorism cases at that time?

MS COLLINS: Yes, I did.

MR. WALDMAN: How many other at

that time?

MS COLLINS: Three, possibly four at that time.

MR. WALDMAN: Okay. So seven out of 1700; is that fair?

MS COLLINS: Yes.

MR. WALDMAN: Does that not, in and of itself, make this an extremely unusual and extremely serious case?

MS COLLINS: At that time? Absolutely.

MR. WALDMAN: Yes.

--- Off microphone / Sans microphone

MR. WALDMAN: I am going to go on to another area, but I am not sure if it makes sense to start it if we wanted to break at one --

THE COMMISSIONER: Sure, that would be fine. It's ten to one. Do you want to break until two?

MR. WALDMAN: 2:15, because I am going to have to consult with Mr. Arar.

THE COMMISSIONER: Okay. We will rise until 2:15.

THE REGISTRAR: Please stand.

--- Upon recessing at 12:50 p.m. /

Suspension à 12 h 50
--- Upon resuming at 2:15 p.m. /
Reprise à 14 h 15

THE REGISTRAR: Please be seated. Veuillez-vous asseoir.

MR. WALDMAN: Okay. I am going to just pick up from where I left off.

Did you ever speak with anyone in the RCMP about Mr. Arar's case prior to his deportation to Syria?

MS COLLINS: No, I did not.

MR. WALDMAN: You didn't discuss this case, for example, with the RCMP liaison officer, Mr. Roy?

MS COLLINS: No.

THE COMMISSIONER: Just a second.
--- Off microphone / Sans microphone

TECHNICIAN: I am sorry.

THE COMMISSIONER: That's okay. You are doing a good job here. Don't worry about it.
--- Pause

MR. WALDMAN: We will give it a try.

TECHNICIAN: Okay? Thank you.

MR. WALDMAN: Thank you.

Were you aware that the RCMP had provided information to the U.S. authorities regarding Mr. Arar and were notified prior to his arrival in New York that he was going to be detained?

MS COLLINS: If I was ...

MR. WALDMAN: Aware of that during this period of time?

MS COLLINS: At that time? No, I did not.

MR. WALDMAN: Were you aware that they were specifically asked to provide questions for Mr. Arar's interrogation and faxed those questions down to the U.S. authorities?

MS COLLINS: No, not at all.

MR. WALDMAN: Were you aware that the RCMP and U.S. authorities were in continuous communication during the time that Mr. Arar was in detention and prior to his deportation?

MS COLLINS: No, I did not.

MR. WALDMAN: I am hearing a hum. Can I proceed?

THE COURT REPORTER: Yes, go ahead.

MR. WALDMAN: Were you aware that U.S. authorities spoke to an unnamed RCMP officer sometime over the weekend of the 5th and 6th and discussed the deportation of Mr. Arar at that time?

MS COLLINS: No, I did not.

MR. WALDMAN: Would it have been of assistance to you to have been apprised by the RCMP of these facts during this time that you were trying to assist Mr. Arar?

MS COLLINS: The assistance of being in touch -- I don't -- sorry.

MR. WALDMAN: Well, assist him in terms of he was expressing his concerns about being deported to Syria, he was expressing all of his fears.

Would it have helped you evaluate the seriousness of the case if you had been aware that the RCMP had provided information to Mr. Arar, connecting him to an al-Qaeda investigation?

MS COLLINS: The RCMP does not normally proceed in providing the information to consular. They just don't give us that information on any other cases.

MR. WALDMAN: Will they not give the information to the ISI?

MS COLLINS: You would have to ask ISI directly, but I was never provided with that information, sorry.

MR. WALDMAN: Okay, you weren't.

I'm more asking you whether or not this is the normal course. If you had been aware of this, would it have affected your handling of the case?

MS COLLINS: That is a speculation. I would presume so, but that is a speculation.

MR. WALDMAN: Yes. I am asking you to speculate, yes?

MS COLLINS: It is a speculation, but I would presume so, yes.

MR. WALDMAN: Yes. So if you had been aware that Mr. Arar had been part of -- there had been allegations that had been sent by the RCMP saying that he was part of an al-Qaeda investigation, that might have affected your evaluation of the seriousness of the case?

MS COLLINS: Yes, but it would also lead to a lot of questions as well to ask. I

mean, what type of questions are they asking? It all depends, yes.

MR. WALDMAN: But it would certainly have been information that would have been helpful to you in evaluating how serious the case was?

MS COLLINS: At that time, yes.

MR. WALDMAN: Thank you. Okay.

When the concern was expressed to you, both through Mr. Arar's brother --

MS COLLINS: Mm-hmm.

MR. WALDMAN: -- and through Ms Girvan through the note where he reiterated his concern about being deported to Syria, and so on -- this happened on two separate occasions -- were you aware at that time of the very serious human rights violations committed by the Syrian government?

MS COLLINS: No, I did not.

MR. WALDMAN: Did you take any efforts to sort of consult with anyone in ISI about the human rights record in Syria at that time to determine whether there were serious concerns if he were to be deported there?

MS COLLINS: No.

MR. WALDMAN: Did you consult with anyone at ISI about Mr. Arar's concerns of being deported to Syria in general?

MS COLLINS: No, I don't recall saying much with ISI. The only thing that was a concern was the allegation of something, but I never shared anything else more with ISI, so I didn't really speak with ISI on anything with Mr. Arar's case.

MR. WALDMAN: I would like to ask you if you could look at tab 11.

MS COLLINS: Yes.

--- Pause

MR. WALDMAN: So this is the first CAMANT note where you are advised, first, that there was no INS file on the subject and that because he was MDC it wasn't a deportation case. But in the very same CAMANT note you are advised by a more senior official at INS that this is such a serious case that it should be taken to the highest level, the Ambassador in Washington.

Now, Ms Girvan testified that she was of the belief that because Mr. Arar was in the MDC it wasn't a deportation case?

MS COLLINS: That's correct. MDC

is a Metropolitan Detention Centre.

MR. WALDMAN: Right.

MS COLLINS: So it is a detention centre.

MR. WALDMAN: Right. But is it not also fair to say that the information that was provided by a very senior INS officer, he told you to get the Ambassador to speak to the Department of Justice?

MS COLLINS: Mm-hmm.

MR. WALDMAN: Now, are you aware that the head of INS is the Attorney General, was the head of the Department of Justice?

MS COLLINS: If that person? No.

MR. WALDMAN: No, no. I'm asking you are you aware that the person in the U.S. Cabinet in charge of INS is the Attorney General.

Do you know?

--- Off microphone / Sans microphone

MR. WALDMAN: Okay. What I'm suggesting to you is that the officer was telling you to get your Ambassador in Washington to speak to officials in Washington who were heading the INS.

MS COLLINS: To us the Department

of Justice is the one that covers any legal aspects of anything that has to deal with criminality in the United States. It's not necessarily with U.S. Immigration. We are now dealing with -- the Department of Justice is responsible for the Bureau of Prison and various department of correctional services in the United States as well.

MR. WALDMAN: Okay. Thank you. So if you go to tab 14.

MS COLLINS: Yes.

MR. WALDMAN: This is sent to a whole series of persons, but Mr. Pardy is not copied.

Is there any reason why he wasn't copied at this time on this?

MS COLLINS: On October 2nd Mr. Pardy was not in Ottawa. Helen Harris, the Acting Director General, was copied on the message.

MR. BAXTER: Actually, Mr. Pardy is copied as well. If you look at the first set of cc's he is at the bottom on the right-hand side.

MS COLLINS: Okay. Thank you.

THE COMMISSIONER: Thank you.

MR. WALDMAN: I'm sorry, I missed that. Okay, that's fine.

So am I correct in understanding that Ms Girvan told us that she tried to reach Mr. Pardy and he wasn't there. That is precisely why, he wasn't there and that's why she couldn't reach him on the 2nd and she spoke to Helen Harris?

MS COLLINS: That's correct.

MR. WALDMAN: Do you know what Mr. Pardy was doing at the time, where he was?

MS COLLINS: He was out of the country.

MR. WALDMAN: So could I ask you to go to tab 23 for a second?

--- Pause

MR. WALDMAN: All right.

Now, you suggest to Ms Girvan that she treat this case the same as "X's" case -- is that correct -- where a diplomatic note was sent? That is at the very --

MS COLLINS: Yes, that we suggest that we treat this case -- yes, I do say that in my note.

MR. WALDMAN: So that is at 9:30 you are suggesting that a diplomatic note should be sent.

Then at 9:53, you say:

"Before we proceed with the diplomatic note, I think that we should wait and see if MDC replied to our fax."

(As read)

MS COLLINS: In the first message I'm not saying that we send a diplomatic note, I am saying that we should treat this case as Mr. "Y".

I am not making an allusion of sending a diplomatic note. I don't say "Let's send a diplomatic note" here.

MR. WALDMAN: Well, 23 minutes later you send a follow-up e-mail I guess.

MS COLLINS: Yes.

MR. WALDMAN: "Before we proceed with a diplomatic note"?

MS COLLINS: That's right.

MR. WALDMAN: So did you consult with Ms Harris or anyone else during that time period?

MS COLLINS: Yes, we did. It was discussed that because the MDC had asked that a fax be sent that we would give some time to MDC to reply back to us. So we didn't want to jump right away in sending a diplomatic note if we didn't have -- give them sufficient time to reply.

The fax was sent in the evening, we are now in early morning, I just feel that it would be okay to give some time for the MDC to reply.

MR. WALDMAN: Okay. I'm going to move on to another area now.

I just want to talk to you a bit because I'm a bit confused about how you are recalling things through your evidence here. I just want to understand how it is that you record information.

You are dealing with 1,700 cases at any one time. Right?

MS COLLINS: Mm-hmm.

MR. WALDMAN: So obviously it is impossible for you to remember particular details about individual cases, so you have to record things in your notes in one fashion or another.

Is that correct?

MS COLLINS: A lot of the times, but I do still remember quite clearly some other cases. Yes, I do. Not necessarily all 1,700, but I am pretty familiar with most of my cases.

MR. WALDMAN: Okay. So you remember the general facts around the case and things like that, but the very --

MS COLLINS: In general terms, yes.

MR. WALDMAN: In the very specific details you would have to refer to your notes?

MS COLLINS: Exactly. Some of them are clear, some of them are not. I mean it has been a while now.

MR. WALDMAN: Right. In Mr. Arar's case we are talking about, as you have told us when I asked you about whether you consulted with Ms Harris, you can't remember things that happened three years ago --

MS COLLINS: In this case absolutely, I do know that I would.

Do I specifically remember when I saw Ms Harris? I'm sure the first thing in the morning when I opened up my system and I saw this message, I'm sure that -- I'm pretty sure that I

would have went to see --

MR. WALDMAN: But you can't recall. It is very important because it is one thing to say "I saw Ms Harris", and I think what I'm hearing you say now is: "I assume I would have spoken to her when I saw the message because it would have been my practice". It is a different story. Right?

So if I'm understanding you correctly, you are now telling me that you don't recall whether you saw Ms Harris, but you are pretty sure you would have seen her because of course once you saw the message you would have consulted with her.

Is that fair?

MS COLLINS: That's fair.

MR. WALDMAN: You don't recall the conversation now that you had with Ms Harris three years ago about Mr. Arar?

MS COLLINS: I know that we -- I think there is also the press line I believe, the Q&A, which has to be approved by her, so that would indicate that, yes, we did meet.

MR. WALDMAN: But you can't recall the meeting yourself. You are just relying on the

written material, the notes --

MS COLLINS: I can't physically recall when exactly we met, exactly.

MR. WALDMAN: Right. The same would be true you can't recall whether you met with Mr. Carisse, you might have --

MS COLLINS: Mr. who?

MR. WALDMAN: I can't remember. Carisse.

MS COLLINS: Carisse, yes.

MR. WALDMAN: You can't recall if you did. You assume you probably did --

MS COLLINS: It would be my typical -- yes.

MR. WALDMAN: It would be your typical routine to have contacted him?

MS COLLINS: That's right.

MR. WALDMAN: But at this point, given there is absolutely nothing in the notes, you can't say one way or the other for certain?

MS COLLINS: Correct.

MR. WALDMAN: Is it fair to say, then, if I understood Ms Girvan's testimony, the most important information would be put into the CAMANT notes?

MS COLLINS: Normally, yes.
MR. WALDMAN: Normally. So anything that was really significant you would want to keep a permanent record of it, so it would go into the CAMANT notes, so that you could --
MS COLLINS: We try, yes. We try to.
MR. WALDMAN: You try to put?
MS COLLINS: Yes.
MR. WALDMAN: So anything that was really important would go into the CAMANT notes?
MS COLLINS: That at the time we thought was relevant, yes.
MR. WALDMAN: Right. Okay.
You have also told us -- we have looked at your notebook.
MS COLLINS: Yes.
MR. WALDMAN: It's fair to say, aside from noting that conversations took place or didn't take place, there is very little else there. Right? An occasional notation, but mostly it is just a time and a person and a call or returning a call.
Is that fair?
MS COLLINS: No. There are times

where I had detailed notes. I mean, I can't just presume why sometimes I would just take detailed notes or not, but --

MR. WALDMAN: In terms of what we have in front of us -- I'm not asking you in general, I'm asking you to turn to what we have here in the notes.

MS COLLINS: Mm-hmm.

MR. WALDMAN: I really don't see anything that is detailed.

MS COLLINS: A lot of the times with my conversation with Mr. Taufik Arar I was immediately writing it into the computer.

MR. WALDMAN: Right.

MS COLLINS: A lot of the times. I'm on the phone, I'm facing my computer, and I'm entering the information as I go along.

MR. WALDMAN: Right. And all the important information would have been entered into --

MS COLLINS: The most pertinent that I felt at the time, yes.

MR. WALDMAN: So let me just ask you about your conversations with Mr. Arar's brother, Taufik.

MS COLLINS: Mm-hmm.
MR. WALDMAN: He was calling you from Montreal.
Is that correct?
MS COLLINS: I believe so, yes. It is a 450, so I would assume it's Montreal area.
MR. WALDMAN: Right. Do you recall what language he spoke to you?
MS COLLINS: I think we spoke both languages, mostly English or French.
MR. WALDMAN: You don't recall which one?
MS COLLINS: I would presume it was in English. It could have been in French. It could have been both.
MR. WALDMAN: Presuming. But I'm asking if you recall, and you are saying you presume.
MS COLLINS: If I remember distinctively with Mr. Taufik? Distinctively, no I don't remember if I spoke French or English with him. Very often I do speak both languages with a client. They will start off with English and then eventually we will end up speaking French or we will switch back and forth. With people that are

bilingual it is a common process that we do.

MR. WALDMAN: But you don't really know what languages Mr. Taufik Arar speaks?

MS COLLINS: If I recollect now? I cannot recollect that now; sorry.

MR. WALDMAN: Okay. So you don't know if he had trouble speaking or he was fluent in the language he spoke to you?

You can't recall?

MS COLLINS: I didn't see any difficulties in his expression.

MR. WALDMAN: All right. Let's look at the CAMANT notes.

I think the first one is 10. Can I ask you to look at 10?

MS COLLINS: Mm-hmm.

--- Pause

MR. WALDMAN: So this is the first conversation on October 1st, and he says:

> "Brother called this morning in state of panic. Subject was able to call him this morning from MDC and informed him that he would be deported back to Syria where he is

born. Both subject and brother extremely afraid that he would be deported back to Syria. Have informed brother we just received confirmation of whereabouts and that we are trying to confirm charges. I also informed without prior authorization we weren't able to provide any additional information." (As read)

So then you asked to send the introduction letter.

So that is the CAMANT notes of your first conversation.

Is that correct?

MS COLLINS: Yes.

MR. WALDMAN: Is there anything more that is going to be of assistance to us in your handwritten notes?

I don't think so, but I'm asking you --

MS COLLINS: I don't think so.

MR. WALDMAN: It's on page 2.

MS COLLINS: Yes.

MR. WALDMAN: Okay. So this is the extent to which we have notes taken at the time.

Do you recall the conversation beyond that? You can't recall what language it's in, so can you recall the conversation?

MS COLLINS: I recall the conversation. I remember him talking about deportation to Syria.

I remember asking him why he was afraid that he would be deported to Syria. I asked if it had anything to do -- I remember asking a couple of questions. One is if he had entered the United States on a Canadian passport.

MR. WALDMAN: Okay. So that is what you remember?

MS COLLINS: I remember.

Second of all, I do remember asking him about the military term in Syria, if that was a reason why he was afraid.

MR. WALDMAN: Well, if I were to put it to you that Mr. Taufik Arar's recollection --

MR. BAXTER: Mr. Commissioner, I'm

sorry, we are running into the same problem here I think we ran into with the cross-examination of Ms Girvan.

I don't know if you want to give some guidance here?

THE COMMISSIONER: Certainly.

You can put to the witness what Mr. Taufik Arar has told you if you undertake to call him to support the suggestion.

MR. WALDMAN: Mr. Taufik Arar was supposed to be one of the witnesses that was going to be called last summer before the family was --

THE COMMISSIONER: And he wasn't.

You can put the question if you undertake now that you will call him with respect to this matter.

MR. WALDMAN: Okay. Well, I guess the only difficulty I have is we were advised by the Commission at that time that there might be some issues of fairness that had to be addressed with respect to whether any of Mr. Arar's family members could testify prior to the receipt of the interim report.

So with respect to Mr. Taufik Arar, certainly after we get that disclosure

there would be no difficulty with respect to him testifying. Prior to that time, I don't know how we can give an undertaking without being made aware as to whether it would be fair for him to be called as a witness without reading the interim report.

THE COMMISSIONER: On this specific issue I'm not sure there is a fairness problem. What you are alluding to is what has now found its way into my ruling with respect to Mr. Arar testifying. I'm sure you are familiar with the ruling.

But it is the situation that if you wish to put statements somebody has made to you out of court to a witness, if you wish to assert that a witness would say something, then you are going to have to undertake to call that person as a witness. It is just basic fairness.

Let me just say this to you about it: I don't want to curtail your cross-examination in the slightest.

MR. WALDMAN: Right.

THE COMMISSIONER: I understand, given the nature of your questions, that there is some upset about these conversations. I would

simply urge you -- and if Mr. Arar is giving instructions to you -- keep in mind my mandate and the overall significance of what we are doing.

I'm not suggesting you shouldn't pursue this. That said, I think if you want to put the question the way you just did you would have to undertake to call Mr. Taufik Arar, at least to testify with respect to those conversations.

I'm not immediately aware of any unfairness to him about testifying only about those conversations because I would have thought the only documents that relate to those conversations are the ones that this witness has already referred to, so that he would have the advantage of having heard her evidence and seeing these documents. We could limit it to that.

We would then be embarking upon a course -- I am repeating -- about what is clearly a collateral issue -- it can be important to people, but it is clearly a collateral issue and we are now calling other witnesses, and so on.

That said, it's up to you. This witness did give the evidence, I heard it this morning and I understand where you are coming

from, but that will be the way we have to proceed with it.

MR. WALDMAN: Okay. Just let me consult, because my colleague spoke to Mr. Arar.

THE COMMISSIONER: All right.

--- Pause

THE COMMISSIONER: Let me add this to what I just said before you respond, Mr. Waldman.

If there is something you would wish to call by way of evidence that took place during these conversations that you are of the view is or may be relevant to this inquiry, then I think we should explore ways for you to pursue that.

MR. WALDMAN: The problem I have is I can't give a firm undertaking about Mr. Taufik being willing to testify without having a much greater -- you see, part of the difficulty was that we weren't aware that these issues would emerge because they weren't included in the witness statements.

THE COMMISSIONER: Can I suggest that we handle it this way, and I will hear from counsel, if necessary.

Why don't you carry on with the rest of your cross-examination. We will put to one side, for the moment, this line of questioning, that being the conversations with Mr. Taufik Arar and this witness.

You can then pursue it more fully and, if necessary, we can have the witness recalled. You can call whatever evidence you wish to about those conversations, if you think that is a desirable course. But you won't be prejudiced by putting them to one side at this point.

MR. WALDMAN: Let me just try another way of doing it, which is putting the information in a different way to the witness, and if it doesn't work then maybe we will try that.

I would rather try and finish and not have to come back.

THE COMMISSIONER: I agree with that comment too.

--- Laughter / Rires

MR. WALDMAN: Okay. Let me put a proposition to you: Is it not possible that it was Mr. Taufik who expressed to you concern about Mr. Arar having to do military service? Are you sure that it was you who raised it first as

opposed to Mr. Arar's brother?

MS COLLINS: I did raise it first. I do recall that.

MR. WALDMAN: You are sure about that?

MS COLLINS: Yes, I am sure about it.

MR. WALDMAN: Although it's not mentioned in your notes?

MS COLLINS: No.

MR. WALDMAN: And it happened three years ago and you are 100 per cent sure.

MS COLLINS: The reason why I am sure about that is within my functions of emergency operations centre is we used to have a lot of people that used to call and they were Middle East people. And when he raised that issue, automatically I thought about the military service. That was a common knowledge of myself. And I raised it with Mr. Taufik.

MR. WALDMAN: Do you recall what Mr. Taufik Arar's response was when you started discussing the military service?

MS COLLINS: He told me that it didn't matter; that he was a Canadian citizen and

that he wanted him back to Canada.

MR. WALDMAN: Right. Did he express concern to you, do you recall, about the fact that he might have to do military service in Syria?

MS COLLINS: I don't recall that point.

MR. WALDMAN: You don't recall one way or the other whether he was concerned that --

MS COLLINS: He was concerned for him not to go to -- and I understand that. His main concern was for him not to go to Syria.

MR. WALDMAN: Do you recall whether he expressed concern to you about the fact that if Mr. Arar were sent to Syria he would be forced to do the military service and he may end up in prison?

MS COLLINS: No, I do not recall that.

MR. WALDMAN: But he could have said it. You are just not sure one way or the other.

MS COLLINS: If that would have been something like that, I am pretty sure that I would have taken notice and I would have noted it,

and I don't have anything there. So I don't believe that that was said.

I think that that was important information that I think I would have noticed and I would have put it in my notes.

MR. WALDMAN: You have just told me the issue of military service was raised, either by you or by him. Or you say by you.

MS COLLINS: Yes.

MR. WALDMAN: But you didn't put it in your note?

MS COLLINS: At the time I felt it was irrelevant to this because he was now in the United States. He was at the MDC, which we felt -- I mean, given this is the beginning of a case, that he is in the United States and that we would do anything to make sure he wasn't -- first of all I asked about the passport, if he entered the United States with a passport, and for us to make sure that the American government knew he was a Canadian citizen.

We had no precedent case before Mr. Arar or since, and I think that's very important as well.

MR. WALDMAN: Okay.

Your CAMANT note suggests that the phone call came -- that Mr. Arar made was made to his brother.

You said that:

"Subject was able to call him this morning"

MS COLLINS: If I put that he phoned him, then I guess -- I know that he phoned him and also phoned the mother-in-law.

MR. WALDMAN: So according to you, there were two phone calls; right?

MS COLLINS: I don't know if there are two phone calls. I am not sure if it was -- if I said it was put in, in the notes that he phoned him, it could very well be. But I do recollect something along the lines of the mother-in-law. I do recollect something about the mother-in-law.

MR. WALDMAN: So could it not be that this is mistaken. In fact, the call was not made to Mr. Taufik Arar but made to the mother-in-law?

MS COLLINS: It could very well be.

MR. WALDMAN: So the other CAMANT

note dealing with the phone call is 29? That's the only other -- if I am correct, there is only two.

I am sure my friends will correct me if I am wrong. This is on the 3rd?

MS COLLINS: Yes.

MR. WALDMAN: I am talking about before -- there were calls after he was deported. I am focusing on the time prior, so these are the two. Because in your notes it seems there might have been one or two other calls, but you didn't make any CAMANT notes except for these two prior to the deportation.

Is that correct?

MS COLLINS: I presume so, yes.

MR. WALDMAN: Is this the call that's marked in your book with the "mother threatened"?

MS COLLINS: No.

MR. WALDMAN: That's on page 6.

You see, I am having difficulty trying to ascertain the date of that call.

MS COLLINS: That's the 2nd of October.

MR. WALDMAN: So there was another

call on the 2nd of October?

MS COLLINS: Yes.

MR. WALDMAN: In which the mother-in-law -- and how long did that -- you see, there is an arrow.

Can you read when --

MS COLLINS: Ten.

MR. WALDMAN: Is that 10:25 and 10:26?

MS COLLINS: Yes.

MR. WALDMAN: So this was a one-minute phone call?

MS COLLINS: That's correct.

MR. WALDMAN: And then the one-minute phone call -- the notation is "mother-in-law" and then "threatened"?

MS COLLINS: That's what I recollect him telling me.

MR. WALDMAN: Do you recollect the call itself or just what's within the notes?

MS COLLINS: I do. I recollect Mr. Taufik calling me and telling me that Mr. Arar's mother-in-law is being threatened. He was very agitated and I asked him, by whom, why, what was the relevancy of the mother-in-law to be

threatened? And he got very angry and hung up on me; told me that he didn't need to answer the questions, that all I needed to do was to get his brother out.

MR. WALDMAN: Okay. And yet this call was -- and you told us this call was very significant and after this you went to speak to Ms Harris. Is that correct?

MS COLLINS: Well, I didn't know the relevancy of the mother-in-law being threatened, so I did see my superior, my supervisors, and asking what do I do with this? You know, what are the guidance about this information? I don't have a lot of information. This is the only information I am given. I don't even know the name of the mother-in-law.

The contact, the phone call that I have is very, very short. It's under a minute. It was very, very puzzling for me as well.

MR. WALDMAN: Is it not possible that you misunderstood and that in fact the intent was to relate to you the fact that the mother-in-law had been advised by Mr. Arar that he was being threatened with deportation to Syria?

MS COLLINS: I strongly --

according to this is that I believe that that was her. That was my understanding, because I started asking questions directly to Mr. Taufik about the mother-in-law.

I mean, I can't answer that question; I am sorry.

MR. WALDMAN: But it's fair to say that there is no CAMANT note?

MS COLLINS: No, because there was not enough information. I didn't know what to do with this information. And it didn't seem relevant at the time to enter this in CAMANT and to put what? So I didn't.

MR. WALDMAN: But do you have a recollection of the call or are you just assuming based upon your notes?

MS COLLINS: I have some recollections and also based on my notes.

MR. WALDMAN: So some recollection?

MS COLLINS: Yes.

MR. WALDMAN: So if I asked you precisely what the call was, or the content, you can't say?

MS COLLINS: Pardon me?

MR. WALDMAN: If I asked you precisely what the contents of the call was, you couldn't tell us?

MS COLLINS: It was very short.

MR. WALDMAN: It was very short. So it should be easier for you to remember if it was a short call.

MS COLLINS: It was a very short phone call.

MR. WALDMAN: So do you remember what he said?

MS COLLINS: I just explained.

MR. WALDMAN: Beyond that you don't remember.

I think we are going to have to put this aside, and I will get instructions from Mr. Arar.

THE COMMISSIONER: If I can comment, the way you are handling the question accomplishes much the same thing. What I ruled is inadmissible for you to assert that a witness would say something, but in any event.

MR. BAXTER: If it becomes material to any of your considerations, certainly Ms Collins can be recalled. She is in the area.

I can't imagine -- well, I am not sure how significant it will be in the long run.

THE COMMISSIONER: All right. Why don't you put it to one side and carry on?

MR. WALDMAN: Okay. I would like to deal now with -- Ms Girvan gave us four reasons why she didn't believe Mr. Arar would be deported to Syria.

MS COLLINS: Mm-hmm.

MR. WALDMAN: They had never done it before. He was travelling under Canadian passport. They had been given consular access. And it had not happened in the "X" and "Y" cases.

MS COLLINS: That's right.

MR. WALDMAN: And you agree with that assessment?

MS COLLINS: I do. I do agree.

MR. WALDMAN: So key to your evaluation was that this case, in your view, was very similar to "X" and "Y"?

MS COLLINS: It had some similarities, absolutely, yes.

MR. WALDMAN: So could we look at the note -- We have been given the summaries of "X" and "Y", and perhaps we can go through that.

They are 52 and 53.

Is it fair to say that Mr. "Y", who wasn't a citizen, that's a significant difference; right?

MS COLLINS: He was a landed immigrant, absolutely.

MR. WALDMAN: Right. And you became aware of Mr. "Y"'s detention as a result of Mr. "X" telling you about it?

MS COLLINS: During the first visit, that's correct.

MR. WALDMAN: Right. And you had consular visits even though he wasn't a Canadian citizen?

MS COLLINS: That's correct.

MR. WALDMAN: And he was in the MDC because there was apparently an investigation as to whether he might be involved in terrorism?

MS COLLINS: That's correct.

MR. WALDMAN: Ultimately what happened was he was deported based on an immigration violation.

Is that correct?

MS COLLINS: That's correct. What happened is that he was under investigations and

then eventually was charged for an immigration violation and received, I believe, time served and deported eventually.

MR. WALDMAN: Okay.

MS COLLINS: There was as well other things he was charged as well, of having documents, and other things as well.

MR. WALDMAN: All right. And Mr. "X" -- this is the fellow you describe in some detail -- was a Canadian citizen. He was arrested in New York in September and the family contacted you in October. You kept contacting MDC and they kept saying he wasn't there until November, when you found out through a lawyer that he was there.

MS COLLINS: Okay. Actually the call was placed in JPO. It wasn't myself. I wasn't in JPO at that time. I came in in November.

MR. WALDMAN: Right.

MS COLLINS: So I can only give you the information at that time.

But I do know from the files and working with the files at that time that the original call came in from the wife as a wellbeing/whereabout. She was trying to locate --

there was no indication that Mr. "X" had been arrested. And then there was no call from the spouse until we heard back in mid-November by the attorney who called us.

MR. WALDMAN: And again, as in the case of Mr. "Y", ultimately what happened was Mr. "X", although there was a terrorism investigation, he was charged with an immigration violation, sentenced with time served, and then he was --

MS COLLINS: Deported back to Canada.

MR. WALDMAN: -- deported back to Canada?

MS COLLINS: Correct.

MR. WALDMAN: I would like to put to you that there are a lot of very significant differences between Mr. Arar's case and either "X" and "Y," and I would just ask you to confirm those for me.

At any point -- and I don't see anything in the evidence, and correct me if I am wrong.

Is it not correct to say that at no point were either "X" or "Y" threatened with

deportation to any country other than Canada?

MS COLLINS: That I cannot guarantee you. There could have been the possibility. They just may have not brought it up. We were not told. I don't know.

That is something we would have to ask either the person who visited. If it wasn't recorded, I would not --

MR. WALDMAN: Based upon the information in your possession at this time -- and I am sure if someone has contrary information from the government, they will bring it forward. But based upon the information that you have from your review of the files, was there ever any indication that "X" or "Y" was told by anybody that they were going to be deported to any other country?

MS COLLINS: At that time, no.

MR. DAVID: So isn't that a significant difference between their case and Mr. Arar's, because you were advised at least on two different occasions by different people that he had been threatened with deportation to Syria?

MR. BAXTER: Mr. Commissioner, I have some concerns about this line of questioning given that we have a half-page summary of one

CAMANT file and a one-page summary of the other.

If my friend is going to make much of a meal of this, perhaps we can take it as an undertaking to review the entire CAMANT file, speak to the people that have more direct knowledge -- because Ms Collins has just said in one case she wasn't there for the first two or three months -- and report back to the Commission on that.

It just seems to me, to assert on the basis -- when my friend says what you have before you today, you have no information. Yes, that's true. But these summaries of Messrs. "X" and "Y" have been prepared for a particular purpose.

THE COMMISSIONER: So that we reduce the likelihood of having to call Ms Collins back, I suggest that we proceed with the line of questioning. If there is information you don't know about "X" or "Y", simply please point that out. I am sure Mr. Waldman would expect that.

The government, having heard the line of questioning, is certainly open to review those files thoroughly, and if as a result of that the line of questioning or answers appears to be

misleading in any significant way would be given an opportunity of then introducing the corrected information.

But in that fashion I think what we can do is proceed.

MR. BAXTER: Certainly. I am not uncomfortable with proceeding. I believe the witness has already indicated that she may not have the answers to these questions.

THE COMMISSIONER: Right.

MR. BAXTER: So my friend is proceeding based on her personal knowledge at this time with these --

THE COMMISSIONER: That's clear from her answers. Let's see how we go.

MR. WALDMAN: I just want to point out that having said that, it was Ms Girvan who referred us to Ms Collins as being the one, because we tried to ask the similar questions to Ms Girvan and she said Ms Collins would be the one who could answer, so in anticipation of that.

It also strikes me that Mr. Pardy is testifying on Monday, and certainly between now and Monday -- or Tuesday, it's a long weekend. And certainly between now and Tuesday if it's

necessary and there is something, I am sure he could educate himself on these two files.

THE COMMISSIONER: Sure. You can carry on.

MR. WALDMAN: I am going to carry on. We all understand that.

And if you don't recall, you don't recall.

MS COLLINS: Okay.

MR. WALDMAN: Is that fair? Okay.

So as far as you are aware -- and I just want to clarify.

With respect to -- I understood that you were involved in all of "Y" and most of "X"; is that fair?

MS COLLINS: Yes.

MR. WALDMAN: So it's just the initial month, because you started in November at JPO.

MS COLLINS: Yes, I did.

MR. WALDMAN: And the initial contact with the wife would have been in October?

MS COLLINS: Around that -- no, November. It would have been after November.

MR. WALDMAN: Oh, because the

summary here says that the contact was in October?

MS COLLINS: That's right. She called -- she initially called my office, but I wasn't the case management officer at that time. So whoever was at that function, or that responsibility, took the phone call from the wife at that time.

MR. WALDMAN: I understand. But as of November, she was your file?

MS COLLINS: That's right.

MR. WALDMAN: And you dealt with it all the way through until the end?

MS COLLINS: Until the end, yes.

MR. WALDMAN: And the first contact indeed with Mr. "X" wasn't until November, and by then you were on the file?

MS COLLINS: That's correct.

MR. WALDMAN: So to repeat and just reiterate, there was no indication in Mr. "X"'s file, based upon your recollection --

MS COLLINS: Yes. I didn't study the case, so I --

MR. WALDMAN: Okay. That's fine.

And is it also fair to say that there was never any indication from any U.S.

official in Mr. "X"'s case that you should get your ambassador in Washington to speak to the Department of Justice?

MS COLLINS: There was no calls -- there was no calls made through the interlocutor or through U.S. Immigration at that time because they were already at MDC. So I can't say that there would have been; it's just there weren't. He is already at the 9th level at MDC.

MR. WALDMAN: But there is no indication from any senior U.S. government official that this was a very serious case that required reaction at the highest levels?

MS COLLINS: He was already at MDC. He was already on the 9th level.

MR. WALDMAN: And with respect to any of these other cases, was there ever a document similar to the one that Ms Girvan sent you in the CAMANT note under 235(c) of the Immigration and Naturalization Act?

Did either of these people get one of those documents under an Expedited Removal Process?

MS COLLINS: If they were, we were not provided with a copy. That was up to the

individual to provide us. That's normally given to their attorneys, not necessarily to us. It's up to the individual.

MR. WALDMAN: But to the best of what you know, you had no indication that such a document --

MS COLLINS: I don't recall; no, I don't.

MR. WALDMAN: I would like to go to that document, if you can just give me a second to find it. It is in the CAMANT note.

Tab 31. I will give you time to get to it.

So on October 3rd, Ms Girvan took the trouble to type out on CAMANT the actual allegation under section 235(c) of the Immigration and Nationality Act. So you were apprised at that date that there was a process going on under section 235 and that the allegation was that Mr. Arar was inadmissible as a member of al-Qaeda?

MS COLLINS: Mm-hmm.

MR. WALDMAN: Is that fair?

MS COLLINS: Yes.

MR. WALDMAN: Did you take the time to find out what section 235(c) of the

Immigration and Naturalization Act was?

MS COLLINS: No. Normally that would be the responsibility of the attorney of the client.

MR. WALDMAN: But at this time, Mr. Arar had not seen a lawyer.

MS COLLINS: At that time there was talks of -- and I believe during the visit that Miss Maureen Girvan informs Mr. Arar that the family is hiring an attorney. So that would be the responsibility of the attorney to really address this issue and not for us to address that issue.

MR. WALDMAN: Okay. You had been told by Mr. Arar, and you reiterate it on the 3rd, and indeed it said in the note that he was afraid that he was going to be deported back to Syria.

You get this document under section 235(c) of the Immigration and Naturalization Act. You know he doesn't have a lawyer at the time, and you don't check to find out -- do you think it would be difficult to find out what 235(c) of the Immigration and Naturalization Act is?

MS COLLINS: It wouldn't be

difficult, but it is something that we do not do. That is the responsibility of an attorney --

MR. WALDMAN: You don't do it in a case when you are being told by a senior official --

MS COLLINS: We don't deal with the charges per se. What we try to do is we try to assist the individual. If he wouldn't have had an attorney, we would have provided him with a list or we would have provided him with the information on how to obtain a public defender in the United States. We don't defend a person in a court of law or U.S. Immigration. That's not our functions. And I think that's what's important here.

We are aware of what is said. But that's not up to us to represent him.

MR. WALDMAN: No, no one is suggesting that you represent him, ma'am. All I am suggesting is it might have been important for you to check and understand -- I mean, given the fact that you have been warned that this was a very serious case and you should go to Washington, and you have been waiting, you tell us, to find the charges, it might have been helpful for you to

check.

I would suggest to you that if you do a Google search, it's very easy. There are numerous copies online available of the Immigration and Naturalization Act. It couldn't have taken you more than ten minutes to find it. And it might have helped you understand the seriousness of the allegation if you had taken the time to do that.

MS COLLINS: I guess I could have done it.

MR. WALDMAN: I just want to clarify one little housekeeping matter this morning, because you suggested that there was a conversation between Mr. Archambault and the Department of Justice. Are you sure about that?

I believe Ms Girvan's evidence on this point is not consistent with yours.

MS COLLINS: Helene Bouchard made a call, I believe, if I recollect?

THE COMMISSIONER: That's what you said this morning.

MS COLLINS: Yes. I didn't say Mr. Archambault.

MR. WALDMAN: Oh, sorry,

Ms Bouchard.

But I believe that we asked Ms Girvan, and she said there are no contacts between April 3rd --

MS COLLINS: I think there is an e-mail to that effect, if we want to go back and probably look.

MR. BAXTER: I believe Ms Girvan was taken to tab 703, Mr. Commissioner.

THE COMMISSIONER: Tab 703?

MR. BAXTER: Yes. It speaks about a call later in the process, in the seventh paragraph down, beginning with:

"I was asked by BCM ..."

The second line says:

"... as I believe that Washington and Mr. Gar Pardy were in touch with officials at the Department of Justice and with State on the 9th of October and subsequently."

I also believe there was a line of questioning, and I don't have the transcript here --

MR. WALDMAN: I have it here.

MR. BAXTER: -- that may have touched on other references to DOJ contact. But certainly this is one relatively contemporaneous document that speaks about that.

I don't know if the witness had another one in mind, Ms Collins.

MR. WALDMAN: My only concern was our understanding was that there was no contact, and Ms Girvan on page 2228 of the transcript -- it says:

> "My question is that neither you, nor anyone to your knowledge, contacted U.S. authorities between your interview on October 3 and Mr. Arar's deportation at 3 a.m. on October 8...

And she says:

> "To my knowledge, no."

THE COMMISSIONER: The call referred to in 703 wouldn't fall within that question.

MR. WALDMAN: No.

THE COMMISSIONER: Your question is before October 8th.

MR. WALDMAN: Before his deportation, right.

THE COMMISSIONER: Right.

MR. WALDMAN: So are you sure that there was contact before the deportation?

MS COLLINS: I am not sure.

THE COMMISSIONER: Sorry. I missed the answer.

MS COLLINS: Oh, sorry. I am not sure.

THE COMMISSIONER: And I am sure you don't mind me asking this, Mr. Waldman.

MR. WALDMAN: No.

THE COMMISSIONER: Is anyone aware whether there is any reference to such a phone conversation before October 8th in the documents?

MR. WALDMAN: I looked. I couldn't find it. I am in other people's hands. Maybe someone else did.

There's lots of documents I may not have seen.

MR. DAVID: We have no indication of any.

THE COMMISSIONER: Thank you.

Carry on, Mr. Waldman.

MR. WALDMAN: I just want to go back to 235(c). So you didn't undertake the research yourself. You didn't ask anyone else -- if I understood Ms Girvan, that would have been a function that you might have asked ISI about?

MS COLLINS: 235? No.

MR. WALDMAN: No. If you wanted to get information about 235(c) and you couldn't find it yourself, who would be your resource person to go to?

MS COLLINS: The resource? It could have been our Justice people. We could have done a local search. We could have gone back to Washington and asked them, because most of the time, as they are in Washington, they have direct contacts with the local authorities there.

We also have -- they are able to access that information as well through our senior immigration officer at the Canadian embassy in Washington.

MR. WALDMAN: Right. And you didn't take any of those steps?

MS COLLINS: No, I did not.

MR. BAXTER: Mr. Commissioner, I have just had drawn to my attention, the top

e-mail at tab 23 -- and I knew there was another reference to a more timely discussion.

It says:

> "... but understand from Helene that they are likely to check with their contact at Justice informally as a first step at their end. The Dipnote, if necessary, can follow that. Cheers, Maureen."

I do recall I think Ms Girvan was taken to this section too. This is on October 2nd at 10:09 a.m. I don't frankly recall what the answer was, and we may have to make some inquiries down with the folks in Washington, D.C. to understand about that.

But that may have been the reference that Madame Collins was referring to earlier about Helene --

MS COLLINS: Helene Bouchard.

MR. BAXTER: -- Bouchard.

MR. WALDMAN: My recollection, Mr. Commissioner, is that there were discussions about it, but when Ms Girvan was expressly asked,

at least as far as she was aware, it had not occurred. But, you know, if it did, it did.

But the record, as I understood it, indicated that it had not. It would be important to know that, I think.

MS COLLINS: I don't know. We would have to ask --

THE COMMISSIONER: Yes, I think it would.

And your answer is you don't know.

MS COLLINS: I don't know.

THE COMMISSIONER: I think that's probably as far as we can go then.

MR. WALDMAN: I agree on that point.

THE COMMISSIONER: Thank you.

MR. WALDMAN: Just to be clear on this, 235(c), had you ever seen one of these before?

MS COLLINS: That one before? No.

MR. WALDMAN: Have you seen one since?

MS COLLINS: No.

MR. WALDMAN: So Mr. Arar's was the only time you ever confronted --

MS COLLINS: I don't normally see these types of documents. So that's the reason why I haven't seen them since.

MR. WALDMAN: In fact, just for your information, if I recall correctly, Ms Girvan gave us the evidence that ultimately they obtained the information on 235(c) through the CCR.

Do you recall that?

You don't recall that, okay.

MS COLLINS: No, I don't.

MR. WALDMAN: You told us about the possible -- the diplomatic note as being the most significant thing that could have happened. I am going to ask you if that's correct.

Is it not possible that other steps could have been taken besides the diplomatic note?

MS COLLINS: Certainly, there are many steps that can be undertaken, absolutely.

MR. WALDMAN: Like what other steps could have been taken?

MS COLLINS: What other steps can be taken? Informal communications. There would have been regular, I guess -- that's normally what it is. Again, what Helene has demonstrated, they

are informal calls. So these are the normal steps that we would undertake.

If that fails, then we normally proceed on with a diplomatic note.

MR. WALDMAN: Ms Girvan was asked the question, but I will ask it to you again. It's a hypothetical.

If we assume for a moment that on October 2nd or 3rd when you saw this form saying that he was a member of al-Qaeda and you had been told that he was being threatened with deportation to Syria, assuming you had received information from other sources or something that led you to take this threat seriously, what other steps could you have taken in that circumstance?

MS COLLINS: I mean, that's a hypothetical question --

MR. WALDMAN: Yes, I know. It's a hypothetical I am asking you because it may be something that you may be confronted with and it's part of your function. So I think it's a fair question, to try and tell us what you might have done if on October 3rd, 2002, all of a sudden you said to Mr. Pardy, "My god, I think they may deport Mr. Arar to Syria. Let's try and stop it."

What could you have done?

MS COLLINS: Normally it would have been raised at a higher level, with Mr. Pardy, who may have placed a call to the embassy, the U.S. embassy here in Ottawa. I would presume that would be one of the steps.

There would also be Mr. Archambault meeting with the State Department as well because the two foreign ministries. These would be the steps.

And then eventually if they decided to go higher and go to the administrative level, then they would have gone at the level.

MR. WALDMAN: So let's just be clear. There were steps that might have been taken if on the 3rd of October someone had said, "Oh, my god, they may really deport him to Syria." And we will go through those one by one.

Number one, Mr. Pardy could have called the U.S. ambassador?

MS COLLINS: But these are hypothetical --

MR. WALDMAN: Yes. We know they didn't happen. Unfortunately, none of them happened. We are trying to say hypothetically

what could have been done so that we can understand what might have happened.

Okay. So one possibility would have been for Mr. Pardy to get on the phone and ask to speak to the U.S. ambassador, Mr. Cellucci, at the time; right?

MS COLLINS: Mr. Pardy would have not called Mr. Cellucci --

MR. WALDMAN: No. He wouldn't call, no. That's what I thought you said, he would call the ambassador.

MS COLLINS: No, he would have called the embassy. I didn't say the ambassador.

MR. WALDMAN: Sorry, I misunderstood you.

MS COLLINS: No.

MR. WALDMAN: So who would he call in the embassy?

MS COLLINS: He would have called the consul, on the consular side of the U.S. embassy, which was Ms Gerson at the time.

MR. WALDMAN: Ms...?

MS COLLINS: Leslie Gerson or Mary Topalovich(ph).

MR. WALDMAN: So he would go to

his level.

MS COLLINS: Absolutely, yes.

MR. WALDMAN: Mr. Pardy wouldn't call the ambassador.

MS COLLINS: No, no.

MR. WALDMAN: You are smiling. I mean, I am --

MS COLLINS: No, it's okay.

MR. WALDMAN: Okay.

MS COLLINS: No, he would go at the level. Again, you just don't go up to the top immediately. You work your way up.

Mr. Pardy wouldn't have called Mr. Cellucci. That would have been something for Minister Graham to do at the time.

MR. WALDMAN: Just so I can understand, the general rule is everyone operates at their own level. So Mr. Pardy would call someone at his level. He couldn't go up and call someone at a higher level. That's not done?

MS COLLINS: Normally, that's correct.

MR. WALDMAN: So Mr. Pardy could have called the consul. If he didn't get satisfaction, then what would have been --

something could have happened in Washington at the embassy?

MS COLLINS: That would be up to him to decide if he would go through the ADM, which is the Assistant Deputy Minister, and all the way up to the Deputy Minister, or if it would have been up to Washington.

I think that would be a decision for him to take at that time.

MR. WALDMAN: Right. And the ultimate recourse would be the Minister calling either the ambassador or the Secretary of State?

MS COLLINS: I would presume so.

MR. WALDMAN: That would be if they really thought it was a really grave situation?

MS COLLINS: Yes.

MR. WALDMAN: All of those are hypothetical things that might have happened, but because you at the time didn't believe that Mr. Arar was in danger of being deported --

MS COLLINS: I don't think that it's fair to say that I didn't believe. I think what is going on is the details of the information is given to me. We now know -- we presume that

the attorney is going to be there. I don't think we are jumping to the conclusion immediately. Mr. Pardy is also infocopied on the document as well, and he's also looking at the document as well.

MR. WALDMAN: I guess I am a bit confused because up until now -- and I asked you a little bit earlier -- my understanding was that based upon Ms Girvan's assessment the week of September 30th to October -- that critical period from October 1st to October 8th, no one thought that there was a serious possibility that he would be deported to Syria.

MS COLLINS: We did not think it was -- yes, exactly. We did not think that would be.

MR. WALDMAN: So that was my understanding.

MS COLLINS: Yes.

MR. WALDMAN: Because you didn't think it was possible, you didn't take these other steps that you might have taken if you thought it might occur.

MS COLLINS: That wouldn't be a step that I would take. It would have been

Mr. Pardy to decide the steps that he would have undertaken.

So I think that probably that question should be asked to Mr. Pardy.

MR. WALDMAN: We will be asking him, I promise.

MS COLLINS: Okay.

MR. WALDMAN: Thank you very much.

Just to clarify one point, I am assuming the answer is no but I just want to make sure.

As far as you were concerned, no one in DFAIT ever spoke to the Americans between the 1st and 8th of October and expressed to them Mr. Arar's concern about being deported to Syria? This was never raised with them?

MS COLLINS: To my recollection, I don't think so.

MR. WALDMAN: Have you heard of the concept of extraordinary rendition?

MS COLLINS: No, I did not, not until --

MR. WALDMAN: You didn't then, but you now do?

MS COLLINS: Now I do, yes.

MR. WALDMAN: So at the time you weren't aware of this practice that the Americans engage in of --

MS COLLINS: No, I did not.

MR. WALDMAN: -- shipping individuals off to countries where they are interrogated using less-than-savory methods.

MS COLLINS: I did not, no.

MR. WALDMAN: You were not aware of that?

MS COLLINS: No.

MR. WALDMAN: Were you of the detention conditions that Mr. Arar was being subjected to while he was in MDC?

MS COLLINS: No, I was not.

MR. WALDMAN: From your experience with the other two detainees, you didn't have knowledge?

MS COLLINS: I didn't have a full description of the detention facilities. No, I did not.

MR. WALDMAN: So in neither your dealings with "X" nor "Y" you hadn't been apprised of the fact that they were kept shackled and handcuffed and had difficulty getting access to

the telephone?

You weren't aware of those facts?

MS COLLINS: No, no.

MR. WALDMAN: That wouldn't be something that would be of concern to you in your consular functions, to be aware of conditions of detention of Canadian citizens?

MS COLLINS: We have Canadians that are under those types of terms right now when they are in administrative segregation, so we do have people that are incarcerated 23 hours a day. These are considered under administrative segregation.

MR. WALDMAN: One of the matters that intrigues me is, one of the things that Ms Girvan raised was the fact that you weren't given notification under the Vienna Convention.

MS COLLINS: Yes.

MR. WALDMAN: Mr. Arar, according to Ms Girvan at least, indicated that he had asked for that.

MS COLLINS: Mm-hmm.

MR. WALDMAN: Right?

MS COLLINS: On the conversation of October 4th, the conference call that we had

with Mr. Pardy, Mr. Archambault, Ms Girvan and myself, Mr. Archambault did indicate at that time that he had received a call from the State Department acknowledging the detention on October 4th.

MR. WALDMAN: Okay. So that was compliance with the Vienna Convention?

MS COLLINS: Under the Vienna Convention, yes.

MR. WALDMAN: One thing that intrigued me -- and I don't know how much you can answer but it is an interesting point -- 85 per cent of consular cases are in the United States?

MS COLLINS: Approximately, yes.

MR. WALDMAN: And yet you told us that we hadn't entered into some kind of understanding or --

MS COLLINS: A multilateral treaty with the United States for mandatory notification.

MR. WALDMAN: Right. So tell us about this multilateral treaty. I would like to understand that.

MS COLLINS: Sure. It is a multilateral treaty that other nations have signed an agreement with the United States that no matter

what, that the individual wants us to be informed or not, that they are obligated by that treaty to inform the country of their detention.

Canada did not sign that multilateral treaty because in Canada we cannot -- I guess it is under our Charter of Rights and our privacy, that we -- it is reciprocal. And we can't do that under our own system, and therefore we have not signed that multilateral treaty.

MR. WALDMAN: Okay. I wanted to understand why we hadn't done it, because it might have saved a little bit of trouble in this and other cases?

MS COLLINS: It's the justice -- it is a very legal -- that is something that is very, very justice.

MR. WALDMAN: So you understand there is a legal reason why, based upon our Charter and our inability to reciprocate with the Americans --

MS COLLINS: To notify -- yes. Not just -- yes.

MR. WALDMAN: Thank you.

--- Pause

I'm just getting to the end. I'm

just checking my notes.

THE COMMISSIONER: Take your time.

--- Pause

MR. WALDMAN: I just want to pose one last question to you.

I know we all look with the benefit of hindsight, but I want to posit with you that perhaps you ought to have taken more seriously the threat -- the information that was provided.

I posit to you that Mr. Arar told Ms Girvan on the 3rd of the threat of Syria. This had not happened in "X" and "Y's" cases. You were given a notification on the 3rd that clearly indicated he was under expedited removal process. You got a warning from very senior INS officials, which you yourself acknowledged was something that had never happened before.

I just want to suggest to you that you fumbled the ball and you should have taken the warnings more seriously, and maybe if you had and had undertaken the steps that you described to us, Mr. Arar might not have been deported.

MR. BAXTER: Is that a question,

Mr. Commissioner?

MR. WALDMAN: Do you want to respond to that.

THE COMMISSIONER: I took it as a question. It was a suggestion that you should have taken it more seriously, shouldn't you have.

MR. WALDMAN: Yes.

Don't you think you should have?

MS COLLINS: At the time I feel that given the information that we had received -- and I mean in conjunction in also seeking guidance and advice, it was not judged that it was a potential threat of Mr. Arar being deported to Syria.

I mean, we were surprised to find out that is where he went. I mean, no one would have guessed it. No one.

MR. WALDMAN: Okay. Undoubtedly, if you would had have had some of the information that the RCMP had received, it might have changed your opinion. Right?

MS COLLINS: But then again, we did not get that.

MR. WALDMAN: We didn't have it. That's right.

MS COLLINS: No. We had the information that we had on hand.

MR. WALDMAN: How does it make you feel now to know that other officials in the Canadian government were privy to information which might have affected your conduct but they didn't provide it to you?

MS COLLINS: Can you repeat again; sorry?

MR. WALDMAN: How does it make you feel now to think that there are other officials in the Canadian government who are privy to the information that might have affected your judgment about how serious to take this case, but it wasn't provided to you?

MS COLLINS: That's -- that's -- I mean, that's --

MR. WALDMAN: Okay. Thank you very much.

THE COMMISSIONER: Mr. Baxter...?

EXAMINATION

MR. BAXTER: Let's speak about that last question, if that is indeed what it was.

Ms Collins, Mr. Waldman asked you about a telephone call which took place, he said

on the weekend, I think the 5th and the 6th -- if that is the dates of the weekend -- between U.S. officials and Canadian officials prior to the deportation.

Can you describe what the standard practice is on deportation between Canada and the United States, based on your experience?

MS COLLINS: Sure. The normal process for deportation, with any Canadians I guess is an understanding with Canada and the United States, is that when a person is deemed to be inadmissible or ineligible to be in the United States, that they have overstayed their length, that they have committed a crime which is deemed deportable, the process is that when the person receives an order by an immigration judge to be deported, the procedure is for the deportation officer who will receive the file to communicate directly with the Canadian Mission, that it be the consulate, the Consular General, or the embassy, and to seek the confirmation of citizenship. That is one of the processes.

We, in turn, will verify with citizenship if the person has acquired Canadian citizenship, or with vital statistics, given the

information.

Once we have that confirmation, a travel document is issued to the Department of U.S. Immigration, the deportation officer, to facilitate the travel of a Canadian citizen back into Canada.

MR. BAXTER: If I can stop you there.

If the detainee has a valid Canadian passport, that travel document wouldn't be required.

Is that --

MS COLLINS: Not necessarily.

Most people, especially a detainee, they lose all the documentation. It gets lost within the American system.

Once we do our steps of confirming the citizenship, the deportation officer will send a cable to the U.S. Embassy here in Canada who, in turn, will send a message, a request to the RCMP/Interpol to do a background check on the individual to see if there are outstanding warrants, if the is person wanted in Canada, and then from there the communications would be done between the RCMP and the U.S. Embassy.

If the person is wanted in Canada, then the communications between the two would be set only. We would not be informed of this.

MR. BAXTER: So communications between the RCMP --

THE COMMISSIONER: Just if I can, do you mind standing, Mr. Baxter?

MR. BAXTER: I'm sorry. No, not at all. I thought I would be shorter than that.

THE COMMISSIONER: We have adjusted the process so that...

--- Laughter / Rires

--- Pause

THE COMMISSIONER: Thank you.

MR. BAXTER: So it is not unusual, per se, to have some communication between the RCMP and U.S. officials?

MS COLLINS: For deportations?

MR. BAXTER: Yes.

MS COLLINS: Not at all.

MR. BAXTER: And that is deportation back to Canada?

MS COLLINS: That is correct.

MR. BAXTER: So had you known, as my friend suggested, that there had been a phone

call, would that have rung any special bells in your mind with respect to Mr. Arar's case?

MS COLLINS: No. That would have meant to me that they were thinking about deporting him back to Canada. That is what it would have meant to me.

MR. BAXTER: Thank you.

The other area I want to cover -- Mr. David has told us there is an area that you will need to cover in camera -- but you did describe a conversation which, I think if we look again at the time line, took place on the 10th of October in the morning.

Is that accurate?

MS COLLINS: I believe so.

MR. BAXTER: This was with a Canadian official in Washington?

MS COLLINS: It was with an American official.

MR. BAXTER: Pardon me, an American official. Correct.

Without going into anything you can't divulge, this discussion with he or she, was it face to face?

MS COLLINS: Yes, it was.

MR. BAXTER: You said that he or she made certain phone calls in order to inform you?

MS COLLINS: Yes, correct.

MR. BAXTER: Then what was the reaction?

MS COLLINS: The reaction was -- the person's face was very, very -- became very white. The person -- the American official was astounded.

MR. BAXTER: What were his or her words to you, if you remember them?

MS COLLINS: There were -- the words were, if I recollect properly, "There is nothing you could have done," meaning, i.e., Canada. "Their minds were made up."

MR. BAXTER: "Their minds were made up"?

MS COLLINS: Those were the exact words that we were provided with.

MR. BAXTER: How clearly do you remember that conversation today?

MS COLLINS: Oh, I remember very, very clearly.

--- Pause

MR. BAXTER: Thank you. Those are my questions.

THE COMMISSIONER: Mr. David...?

EXAMINATION

MR. DAVID: I just want to clarify, if you could take Volume 1 with you and just look at tab 10. Let's look at tabs 8 and 10.

MS COLLINS: Okay.

MR. DAVID: Let's start with 10, and it is simply to clarify the issue of your telephone conversation with Mr. Taufik Arar on Tuesday, the 1st of October.

MS COLLINS: Yes.

MR. DAVID: It is reproduced in this CAMANT note here at tab 10.

Essentially what is noted in terms of the information that Taufik Arar is giving you is that he and his brother fear a deportation to Syria?

MS COLLINS: That's correct.

MR. DAVID: The CAMANT note also refers to the fact that Maher Arar spoke to Taufik this morning. That is what the CAMANT note says?

MS COLLINS: Yes.

MR. DAVID: Is that your

recollection of those events?

MS COLLINS: I would presume so. I can't recollect --

MR. DAVID: So your recollection is based on the contents of the CAMANT note?

MS COLLINS: Correct.

MR. DAVID: You have no independent recollection?

MS COLLINS: Of that particular note about if he had spoken with them or -- no.

MR. DAVID: About the fact that there was a direct conversation between Maher Arar, detained at MDC, and Taufik Arar?

MS COLLINS: I recollect that the conversation -- not personally with Mr. Taufik, but my recollection is I know that Mr. Taufik told me about the call and I believe that it was with him. I mean, if I would have entered a note, I believe that the conversation was made with him.

MR. DAVID: Though we don't have the times indicated in the extract that you have of your notes with regard to this conversation -- and that would be on page 3 -- from the unredacted version the time indicated for the duration of that call is from 12:00 to 12:17.

MS COLLINS: Okay.

MR. DAVID: So the phone call from your notes indicate a duration of 17 minutes.

MS COLLINS: Mm-hmm.

MR. DAVID: Do you recall that that phone call lasted approximately 17 minutes? Do you have an independent recollection of that, or was this a brief call, or do you have any --

MS COLLINS: In this conversation, the first call was not a brief call with Mr. Taufik.

MR. DAVID: Okay. And this was the first conversation?

MS COLLINS: This was my first conversation, yes.

MR. DAVID: Okay. Let's go to tab 8 if you will? This tab, you are not infocopied on it, it is not sent to you. The closest person that it is being sent to is John Carisse, in your office?

MS COLLINS: Yes.

MR. DAVID: It refers to a chain of three phone conversations.

MS COLLINS: Okay.

MR. DAVID: There is the first

conversation would have been between Maher Arar and his mother-in-law in Ottawa.

The second phone conversation would have been between Maher Arar's mother-in-law, the mother of Monia Mazigh, and Monia Mazigh, her daughter, in Tunisia?

MS COLLINS: I would presume so, yes.

MR. DAVID: The third phone conversation is between Monia Mazigh with the consular officer in Tunis. So there is a chain of three calls here.

What I want to bring you to is with regard to the phone call between Maher Arar and his mother-in-law. This call records essentially three messages being sent from Maher Arar to his mother-in-law.

The first message is that he is being detained in New York City?

MS COLLINS: Yes.

MR. DAVID: And he is being detained at an institution that he characterizes as being the Federal Bureau of Brooklyn.

The second content of that conversation is the fact that there are no reasons

or accusations that are being provided to Maher Arar to explain why he finds himself in this situation.

It is in the second paragraph; "No reasons or accusations have been given to him".

MS COLLINS: Yes. I guess, yes.

MR. DAVID: Do you see that?

MS COLLINS: Yes.

MR. DAVID: The third item indicated by Mr. Arar to his mother-in-law is that he is not being well treated --

MS COLLINS: Mm-hmm.

MR. DAVID: -- by the authorities in this institution, presumably.

Those three items, were they discussed by Taufik Arar in your conversation with Taufik Arar on that same day?

MS COLLINS: The only thing that he told me was that he was in Brooklyn -- he was in New York. So these things here were not raised with me.

MR. DAVID: They were not raised by Taufik Arar in your phone conversation --

MS COLLINS: No.

MR. DAVID: -- as recorded in

tab 10?

MS COLLINS: No.

MR. DAVID: Thank you.

THE COMMISSIONER: Is that it then? Is that -- nothing else? Okay.

--- Off microphone / Sans microphone

THE COMMISSIONER: Thank you very much, Ms Collins. That completes your evidence.

MS COLLINS: Thank you.

THE COMMISSIONER: Thank you for the time and effort you took in preparing and coming to give your evidence.

MS COLLINS: Thank you very much.

MR. WALDMAN: I just want to raise one matter about how the proceedings were conducted today, specifically about this conversation that took place in Washington, because Mr. David said it is going to be in camera, I can't discuss it, and then my friend asked the question --

THE COMMISSIONER: That is why I looked at you. I'm wondering -- if you wish to raise it --

MR. WALDMAN: There is a problem now, which is how much can I ask given

that I have been told it is going to be in camera and yet my friend chose to bring out a little snippet of the information that he thought was helpful but now we are being told we can't challenge on it because it is --

THE COMMISSIONER: I don't think that is the case. I think that would be unfair to you.

I think Mr. Baxter chose to lead that conversation, Mr. David did not. You didn't have an opportunity to cross-examine. I think he has opened the door. I think you are free to cross-examine on that conversation.

MR. WALDMAN: Yes.

THE COMMISSIONER: If you want to take some time to look to see if there are notes or whatever, otherwise, I think it would be unfair.

In future process the government goes last. I think we can sense that -- the government goes last because they are counsel for the witness, but if the government is intending on raising new matters not raised in the examination-in-chief, as in this case, I think they should fairly give notice of that so that

Mr. Waldman and Ms Edwardh aren't left without the opportunity to cross-examine.

MR. BAXTER: In fairness, and I had anticipated that much coming out with Mr. David's examination, I agree with you that Mr. Waldman should be allowed to cross-examine insofar as it doesn't reveal the identity of individuals.

There is also a process contemplated, Mr. Commissioner, whereby even if it has to be conducted in camera, Mr. Waldman and Mr. Arar's counsel team can make sure that certain questions get posed and followed up upon.

But I certainly agree that today, insofar as it wasn't raised by Mr. David and I felt that it could be raised, at least the substance of the conversation could be raised, I agree that cross-examination --

THE COMMISSIONER: It is pretty unusual. I don't know what your conversation with Mr. David is, but the government routinely takes the position that communications from officials of other countries are protected by national security confidentiality. Now, one would be concerned that if they took that position only with respect to

some conversations and not others --

MR. BAXTER: In this case it is the identity of the individual that is the issue that Ms Collins has taken upon herself --

THE COMMISSIONER: I don't think the identity is a matter of concern to Mr. Waldman.

MR. BAXTER: Therefore I agree that cross-examination is possible.

MR. WALDMAN: I just want to clarify.

I am not interested in the identity, I just want to know --

THE COMMISSIONER: Do you want some time before you cross-examine to think about it?

MR. WALDMAN: No.

THE COMMISSIONER: Go ahead.

MR. WALDMAN: It seems to me there is only one issue that emerges, which is in terms of given the nature of the information what organization she worked for?

Did she work for INS?

MS COLLINS: It is an American official. I cannot release any identity, I'm

sorry. I have to object.

MR. WALDMAN: I mean, this is another example of the government providing selective disclosure of information --

THE COMMISSIONER: Was there a note made of the conversation?

MS COLLINS: There is a notice by Ms Harris from a conversation, because when I received that information I pass it on to Mr. Pardy. Mr. Pardy relays that information and I believe there is a note in CAMANT. All it says is "an American official".

THE COMMISSIONER: But does it reveal the content of the conversation as you answered Mr. Baxter?

MS COLLINS: All it reveals is that he was on his way to Syria.

THE COMMISSIONER: So the note doesn't set out the information that you --

MS COLLINS: Not necessarily all that information, correct.

MR. WALDMAN: Mr. Commissioner, I have nothing more to say. It strikes me again that this is just another example of the selective disclosure the government is choosing to give in

this case. There is nothing you can do at this point.

Thank you.

THE COMMISSIONER: Okay. Well, then that completes today's proceedings.

We resume on Tuesday at 10 o'clock.

Am I right, Mr. David?

MR. DAVID: That is correct, Mr. Commissioner.

THE COMMISSIONER: Okay. We will rise until then.

THE REGISTRAR: All rise. Veuillez-vous lever.

--- Whereupon the hearing adjourned at 3:40 p.m., to resume on Tuesday, May 24, 2005 at 10:00 a.m. / L'audience est ajournèe à 15 h 40, pour reprendre le mardi 24 mai 2005 à 10 h 00

Lynda Johansson

Lynda Johansson,
C.S.R., R.P.R.

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able 3008:19 3010:18 3022:15 3039:1 3056:16 3056:25 3074:18 3076:15 3102:23 3179:22 3180:10 3190:5 3213:17
abroad 2990:4 3004:17,23
absence 3087:7 3096:9
absent 3055:13
absolutely 3001:13 3001:19 3006:17 3007:11 3040:22 3044:14 3050:4 3059:19 3077:25 3078:2 3081:24 3083:20 3084:21 3090:20,23 3091:16 3094:14 3095:17 3099:11 3105:6 3107:2 3123:11 3125:17 3133:14 3134:1 3144:3 3152:10 3154:18 3161:11 3173:21 3175:19 3196:22 3197:6 3216:19 3220:2
acceptance 3058:25
access 3035:11 3040:25 3044:6 3047:17 3052:8 3059:17,18 3065:8 3067:13 3068:1 3080:21 3080:23 3092:18 3105:14 3137:4 3139:10 3153:10 3153:13 3156:18 3157:4 3196:12 3213:18 3224:25
accomplishes 3195:20
accounted 3052:6
accurate 3234:14
accusations 3240:1 3240:5
acknowledged 3228:17
acknowledging 3069:20 3226:4
acquired 2991:11 3231:24
act 3000:17 3014:21 3028:19 3028:21 3205:20 3206:17 3207:1 3207:20,24 3209:5
acted 3110:10
acting 3028:25 3086:25 3134:3 3135:21 3151:5 3169:19
action 2994:15 2995:16 3014:17 3029:13 3038:19 3038:19 3059:22 3093:6 3117:20 3131:1
Actions 3030:16
active 2990:12,17 3004:9
activities 2991:25 2992:1,2 3016:7 3086:12
actual 3074:15 3093:25 3206:15
add 2990:9 3185:7
added 3068:24 3136:8
adding 3121:20,21
addition 3035:12 3077:3 3081:20
additional 3102:24 3121:17 3180:11
address 3207:12,12
addressed 3056:18 3112:25 3119:14 3182:20
adequate 3021:20
adherence 2994:13
adjourned 3246:15
adjusted 3233:11
ADM 3221:4
administrative 3126:19 3218:12 3225:10,12
advantage 3184:16
advice 2994:12 2995:2,5,12,14 3001:2 3009:3 3045:2 3062:3 3070:16 3130:18 3134:8 3140:14 3229:12
advisability 3030:25 3031:8 3033:7 3043:12
advise 3023:17 3031:3 3032:8 3056:23 3063:22 3106:6 3131:17
advised 3027:22 3039:15 3102:19 3110:3 3167:15 3167:18 3182:18 3193:23 3200:20
advises 3102:22
advising 3063:13
advisory 3023:13
affair 3111:8
affairs 2987:17,24 2988:16 2989:7 3001:23 3003:17 3003:18 3007:22 3008:2 3027:7 3029:11 3036:22 3039:16 3061:9 3075:5,10 3077:12 3102:2 3105:25 3107:16 3109:18 3112:9 3117:23 3124:25 3125:4
afraid 3017:24 3021:22,23 3180:2 3181:12 3181:21 3207:16
afternoon 3056:12 3088:6 3090:6 3109:25 3110:5
Agency 2992:23
agenda 3083:22 3084:10
agitated 3192:24
ago 3025:8 3133:12 3133:18 3173:19 3174:19 3187:12
agree 3135:4 3186:18 3196:15 3196:17 3215:14 3243:5,14,18 3244:8
agreed 3031:18 3088:19 3093:7,9 3112:12 3119:16
agreement 3043:13 3059:1 3226:25
ahead 3085:19 3117:11 3163:25 3244:18
airport 3027:16 3089:18 3092:6
ajournèe 3246:17
aka 3065:20
Al 3065:20,20
alarming 3100:9
albeit 3130:10
alert 2992:19 3016:6
allegation 3065:24 3066:10 3159:1,5 3167:6 3206:16 3206:19 3209:8
allegations 3066:15 3068:19 3154:23 3159:23 3165:20
alleged 2991:25 3042:10 3154:16 3154:17
allow 3041:5
allowed 3243:6
alluding 3183:9
allusion 3171:14
al-Qaeda 3068:19 3154:24 3159:6 3164:20 3165:21 3206:20 3217:10
ambassador 3028:1,8 3029:2,9 3029:9 3032:15 3110:4 3154:2,2 3154:10,20 3155:16 3156:21 3157:10,14 3167:21 3168:8 3168:22 3205:2 3218:20 3219:5 3219:11,13 3220:4 3221:12
America 3079:5
American 3096:15 3098:18,25 3099:4 3100:8 3101:6 3110:4,6 3189:20 3232:16 3234:19,21 3235:9 3244:24 3245:12
Americans 3026:1 3042:1 3083:14 3223:13 3224:2 3227:20
Amman 3106:1
angry 3053:25 3193:1
annual 3004:13
annually 3049:6 3082:25
answer 2995:13 3049:20,21 3061:10 3064:10 3099:5 3107:21 3130:21,23 3151:21 3193:2 3194:5 3202:21 3212:8 3214:15 3215:10 3223:10 3226:12
answered 3113:12 3153:3 3245:15
answering 3061:7
answers 3052:23 3061:9 3094:21 3096:25 3097:20 3112:13 3113:14 3201:25 3202:9 3202:15
anticipated

3061:21 3243:4
anticipation 3202:21
anxious 3034:13
anybody 2991:8 3075:7 3086:4 3090:3 3154:17 3200:15
Anyway 3124:11
apparent 3151:12 3151:23 3152:1 3153:21
apparently 3197:17
appear 3129:3
appeared 3117:2
appears 2997:3,7 2997:11 3014:9 3026:24 3201:25
apply 2993:18
applying 3127:1
appointment 3075:4
appreciate 2987:5
appreciated 3118:21
appreciation 2993:7 2994:22 3028:5 3035:20
apprised 3164:8 3206:17 3224:23
approach 3093:17 3093:22 3114:7
approaches 3091:8
appropriate 3073:16
approve 3067:14
approved 3061:17 3062:13 3174:22
approximately 3004:9,13 3013:23 3049:11 3226:14 3238:6
April 3210:4
Arab 3026:2
Arabic 3085:2,5
Arabs 3085:7
Arar 2988:9 3006:16 3012:14 3013:16,21 3015:13,15,19 3016:8,25 3017:7 3017:23 3018:3 3020:24 3021:15 3023:3 3024:19 3030:12 3035:16 3041:21 3042:15 3043:14 3053:1,7 3053:10 3057:4 3060:3 3063:9,15 3064:7,10,13 3065:8,14 3066:22 3067:12 3067:14,25 3069:22 3070:8 3071:20 3075:4 3076:24 3078:14 3078:21 3079:25 3080:12,16 3081:11 3087:12 3087:13 3094:10 3094:13,24 3095:14 3096:9 3096:22 3097:1,4 3097:23 3098:23 3099:9 3100:4 3101:7 3102:20 3103:7,12 3104:8 3104:22 3105:7 3105:10,16 3108:1,11 3110:11 3111:7 3113:8,20,24 3114:4,25 3115:16,21 3117:21 3123:5 3132:15 3133:1 3133:10 3142:3 3142:17,18,22,24 3146:8 3152:9 3153:4 3154:16 3154:23,25 3156:17 3157:5 3159:3,17 3160:22,22 3161:21 3163:4 3163:19 3164:4 3164:10,20 3165:19 3167:23 3174:19 3177:12 3179:3 3182:8,10 3182:25 3183:11 3184:1,8 3185:4 3186:5,24 3188:15 3189:23 3190:2,21 3193:23 3195:17 3196:7 3206:20 3207:6,9,15 3217:25 3221:21 3224:13 3225:19 3228:11,23 3229:13 3236:11 3236:17,22 3237:13,13 3239:1,14,17 3240:2,10,16,17 3240:23
Arar's 3006:9,13 3041:16 3053:19 3060:13 3066:7 3067:19 3071:3 3104:25 3106:17 3114:10,15,21 3119:4 3128:15 3133:6 3144:15 3146:12 3147:9 3160:15 3162:9 3163:14 3166:10 3167:2,9 3173:16 3177:24 3181:23 3182:21 3187:1 3187:22 3192:23 3199:18 3200:20 3211:16 3215:24 3223:15 3234:2 3239:4 3243:12
Archambault 3030:21 3033:20 3042:24 3045:6 3050:15,25 3068:10 3069:12 3069:17 3090:5 3092:2 3209:15 3209:24 3218:8 3226:1,2
area 2999:20,22 3008:18 3041:9 3138:20,23 3139:7 3158:16 3161:15 3172:12 3178:6 3195:25 3234:8,9
argument 3044:14 3047:15,19
arguments 3047:5
arranged 3086:23
arrangement 3148:6 3151:15
arrest 2990:12,21 2996:13 3031:6 3031:22 3034:12 3036:24 3069:22 3145:6
arrested 2990:3,23 2991:25 2993:9 2994:1 3018:15 3057:3 3198:10 3199:2
arrest/detention 3006:15 3146:10
arrival 3163:5
arrived 3132:15 3137:14
arriving 3089:18
arrow 3192:5
art 3036:14
article 3032:3 3117:2
ascertain 3191:22
ascertaining 3042:5
aside 3153:20 3159:12 3176:19 3195:16
asked 3018:22 3021:17,23,25 3022:3,7 3027:10 3046:21,22 3055:10 3056:24 3057:6,11 3066:25 3076:6 3096:2 3099:3,4 3112:15 3113:16 3115:8 3145:2 3146:18 3163:13 3172:2 3173:17 3180:13 3181:13 3189:18 3192:24 3194:22 3195:1 3210:2,14 3213:5 3213:14 3214:25 3217:5 3222:7 3223:4 3225:20 3230:24 3241:20
asking 3059:11 3071:25 3072:1 3075:4 3096:5 3134:21 3143:18 3150:8 3151:20 3165:7,14 3166:1 3168:15 3177:5,6 3178:17 3180:23 3181:11,14,20 3193:12 3194:3 3212:12 3217:19 3223:5
asks 3002:5,20
aspects 2993:18 2996:11 3047:7 3169:2
asseoir 2986:6 3074:3 3162:5
assert 3183:16 3195:21 3201:10
assess 3021:14
assessment 2999:21 3000:17 3062:1 3196:16 3222:9
assist 2991:6 2996:16 3008:13 3016:21 3056:25 3061:7 3070:16 3094:23 3137:17 3164:10,13 3208:8
assistance 2990:3 2996:14 3008:2 3008:19 3164:8 3164:11 3180:20
assistant 3088:22 3126:11 3221:5
assisted 3126:23
assisting 3126:15

3037:21 3129:12 3174:5 3175:12 3178:6 3217:8
assumed 3022:2
assuming 3127:9 3128:14 3140:3 3194:15 3217:12 3223:10
assumption 3095:14
astounded 3235:10
attach 3017:7
attached 3118:23
attempted 3029:15
attempts 3037:3,7 3037:24
attend 3076:14,16 3077:6,10
attendance 3077:18 3085:11 3086:4 3096:4 3108:23
attended 3108:20 3111:10 3112:2
attending 3082:13
attention 2995:19 3003:4 3060:22 3074:10 3131:2 3148:3 3213:25
attorney 3037:2 3039:3,15,15,20 3063:19,22 3069:25 3070:8,8 3070:10,12,16 3147:18 3150:14 3168:12,17 3199:4 3207:3,10 3207:11 3208:2,9 3222:1
attorneys 2991:6 3206:2
August 2989:4 3127:10
authorities 2992:20 2993:1 2994:16 3016:6 3031:4 3034:9 3037:15 3038:5,11 3040:19 3067:12 3068:4 3101:6 3110:10 3114:8 3163:3,15,18 3164:2 3211:14 3213:16 3240:13
authorization 3002:14 3007:13 3007:18 3180:9
authorizations 3001:10,12,16
authorized 3007:8
authorizing 3050:8
automatically 3061:18 3187:18
available 3209:4
avenue 3093:17 3097:19
average 3011:12 3012:7 3049:7 3141:20
avoid 2991:6
awaiting 3091:23
aware 3014:19 3027:13 3051:18 3051:19 3083:15 3097:16 3123:5 3136:23 3143:23 3144:17 3145:18 3157:18 3163:2,8 3163:12,17 3164:1,18 3165:8 3165:19 3166:16 3168:11,16 3183:4 3184:10 3185:20 3197:8 3203:11 3208:16 3212:14 3215:1 3224:2,9 3225:2,6
aware/interested 3113:24
awkward 3148:5
a.m 2986:3 3073:23 3073:25 3211:17 3214:14 3246:17

B

back 2987:20 2989:15 2990:25 2991:16 2992:14 2993:23 2994:3 2995:14 3001:20 3004:7 3007:6 3010:17,21 3021:6 3024:19 3027:18,20 3030:8 3032:13 3037:2 3041:12 3044:8,13 3057:14,18 3058:21 3059:23 3092:7 3093:12 3101:23 3104:8 3105:12 3107:9 3107:21 3121:16 3125:1 3135:15 3146:22,24 3149:9,9 3155:7 3159:3 3172:4 3178:25 3179:25 3180:3 3186:17 3188:1 3199:3,11 3199:13 3201:8 3201:18 3207:17 3210:6 3213:2,13 3232:5 3233:22 3234:5
background 3046:5 3062:1 3082:14 3232:21
ball 3228:20
base 3067:19
based 3024:12 3120:7 3194:16 3194:18 3197:21 3200:9,13 3202:12 3204:20 3222:9 3227:18 3231:7 3237:5
basic 3023:22 3183:18
basically 3001:6 3007:20 3013:24 3053:12 3120:8
basis 3004:14 3023:5 3068:16 3119:17 3201:11
Baxter 3074:6,9,21 3123:25 3124:3,9 3148:1,2,9 3169:21 3181:25 3195:23 3200:23 3202:6,11 3210:8 3210:11 3211:1 3213:24 3214:22 3228:25 3230:20 3230:22 3232:7 3233:4,7,8,15,19 3233:21,24 3234:7,16,20 3235:1,5,11,17,21 3236:1 3242:9 3243:3 3244:2,8 3245:15
BCM 3210:14
becoming 3142:19
before-last 3030:15
beg 3123:21
beginning 3006:14 3145:5 3153:1 3189:15 3210:13
begins 3113:2
behalf 3031:24 3080:1 3098:19 3112:15 3117:21
Beijing 3124:22 3125:2
belief 3021:23 3095:10 3167:23
believe 2996:10,24 2997:2,24 2999:13 3004:19 3012:25 3013:5 3020:1,6 3025:9 3029:21,24 3036:25 3039:3 3053:19 3059:17 3067:16 3069:9 3069:23 3071:11 3072:13 3073:12 3075:13 3080:22 3081:15 3085:5 3089:25 3091:5 3093:14 3104:14 3104:17 3107:15 3117:4 3120:5 3135:25 3136:17 3137:1 3142:20 3144:22 3146:14 3147:5,6,18,22 3156:10,24 3158:1 3174:21 3178:5 3189:2 3194:1 3196:7 3198:2 3202:7 3207:8 3209:17 3209:20 3210:2,8 3210:16,22 3221:20,23 3234:15 3237:17 3237:19 3245:11
believed 3095:6,10
bells 3234:1
benefit 3228:7
best 3029:13 3034:1 3070:10 3206:4
better 3008:13
beyond 3063:25 3181:6 3195:13
biannually 3082:25
bilingual 3179:1
birth 3019:9 3057:12
bit 2989:17 2995:9 3037:7 3044:13 3102:4 3135:15 3160:19 3172:13 3172:14 3222:6,8 3227:12
black 3108:6
board 3083:5
Bob 3030:21 3033:22 3043:1 3068:8,10,10
book 3010:21,25 3191:17
books 3010:13
border 2992:23 2993:22
born 3019:6 3180:1
bottom 2997:4 3014:9 3033:10 3066:17 3074:12 3074:18 3075:1 3102:6,6 3109:22 3109:22 3117:14

3121:24 3157:2 3169:23
Bouchard 3045:11 3082:16,17 3098:17 3100:20 3158:2 3209:19 3210:1 3214:21 3214:22
box 2997:4 3074:19
branch 3014:8
breaching 3099:6,7
break 3073:17 3123:5,14 3158:16 3161:16 3161:19
breaks 3097:15
brief 3238:8,10
briefed 3136:21
briefing 3109:10
briefly 2996:8 3009:23 3013:14 3051:12 3104:2 3126:22
bring 2999:2 3015:3 3027:4 3033:4,14 3052:14 3063:11 3064:1 3071:8 3074:6 3075:16 3075:22 3078:3 3078:19 3083:1,4 3086:16 3090:24 3102:3 3103:22 3108:4,25 3109:4 3111:12 3117:11 3200:12 3239:13 3242:2
broad 3059:25
Brooklyn 3239:23 3240:19
brother 3013:21,22 3017:23 3020:11 3020:23 3021:22 3024:20 3057:2 3075:6 3144:18 3146:11,11 3166:10 3177:25 3179:20 3180:2,4 3187:1 3190:3 3193:4 3236:18
brought 2995:18 3078:24 3200:4
bullet 2990:1 2992:16 2994:7 3109:22
bullets 2989:22
Bureau 3038:1 3079:7 3112:9 3169:6 3239:23
business 3072:10 3110:23
busy 2999:11 3064:7 3104:9

C

cabinet 3052:22 3168:17
cable 3232:19
calendar 3016:22
call 2988:8 2992:23 3003:2,20,20 3010:20 3011:16 3011:17,22,22,23 3011:24 3013:20 3018:13 3019:25 3020:5,22 3021:4 3021:6,11 3025:9 3025:12 3029:7 3036:11 3038:14 3038:17 3039:3 3040:25 3045:1,8 3048:25 3055:16 3055:21 3056:2 3057:1,22,25 3063:2 3064:25 3069:11,19 3072:10 3081:10 3081:14 3087:19 3087:25 3088:20 3089:24 3098:19 3098:21 3107:14 3107:21,22 3116:19 3135:18 3146:9 3147:7,10 3148:3 3149:2,4 3149:15 3150:2,8 3150:11,16 3151:16,17 3157:22 3158:2,4 3176:22,23 3179:22 3182:9 3182:15 3183:17 3184:7 3185:11 3186:8 3187:16 3190:2,5,20 3191:1,16,22 3192:1,12,15,20 3193:6,6,17 3194:15,23 3195:2,7,9 3198:16,24 3199:2 3201:17 3204:6 3209:20 3210:12 3211:20 3218:4 3219:10 3219:11,17 3220:4,18,19 3225:25 3226:3 3230:25 3234:1 3237:17,25 3238:2,6,8,10,10 3239:14,15
called 2995:25 3020:21 3027:18 3027:20 3040:22 3047:2,15 3064:7 3074:10 3076:6 3076:22 3104:8 3110:1 3116:6 3123:5 3135:20 3179:20 3182:12 3183:5 3199:4 3204:3,3 3218:20 3219:8,13,19 3220:13,24
calling 3011:19 3043:24,25 3052:24 3056:15 3071:21 3090:1,8 3092:3 3094:22 3107:19 3178:2 3184:22 3192:22 3221:11
calls 3003:16,17 3010:15 3011:3 3011:12,14,20 3023:8 3036:21 3037:25 3087:2 3094:21 3097:11 3141:5 3149:5,10 3149:18 3190:11 3190:13 3191:8 3191:11 3205:4,5 3217:1 3235:2 3239:12
CAMANT 3005:20 3010:17 3012:5 3014:17 3015:4 3018:1 3033:23 3035:2 3038:18 3081:6,21 3090:11 3092:12 3092:19 3104:15 3115:13 3116:24 3134:15,19 3135:4,11 3137:9 3156:14 3167:15 3167:18 3175:25 3176:5,11 3179:13 3180:15 3190:1,25 3191:12 3194:8 3194:12 3201:1,4 3205:19 3206:11 3206:15 3236:15 3236:21,23 3237:5 3245:11
camera 3098:7 3099:14 3234:10 3241:19 3242:1 3243:11
Canada 2990:19,25 2993:20,23 2994:2,4 3000:24 3003:16 3015:17 3019:16,18 3031:25 3043:25 3051:16 3067:3 3103:11 3105:12 3106:16 3107:4 3188:1 3199:12 3199:14 3200:1 3227:4,5 3231:6 3231:10 3232:6 3232:19,23 3233:1,22 3234:5 3235:16
Canadian 2987:20 2990:22 2991:3 2992:20,22,23 2993:4,12,16,24 2994:11 3002:18 3002:25 3003:4,5 3004:17 3005:9 3008:13,17 3019:11,13,17 3022:4,8 3024:5 3028:8 3032:19 3042:6 3043:24 3050:2 3051:15 3067:13,15 3068:14 3078:1 3082:18 3085:12 3092:16 3099:22 3103:10 3105:15 3106:11 3107:17 3114:8 3124:22 3125:7,10 3149:6 3181:15 3187:25 3189:21 3196:11 3197:13 3198:10 3213:19 3225:7 3230:5,12 3231:3 3231:19,24 3232:5,10 3234:17
Canadians 2990:3 2994:20 3004:22 3083:19 3225:8 3231:9
capable 3003:21
carbon 3143:24
cards 2991:20
careful 3048:17 3072:6 3098:5
carefully 3137:7
Carisse 2997:15,17 2997:20 2998:6 3015:9 3050:23 3132:5,6,7,18 3133:14 3134:2 3134:21,22 3138:9 3139:10 3139:14,17,20,21 3139:25 3140:2

3140:19,22 3142:21 3156:1 3175:6,9,10 3238:20
carried 3024:9
carry 3000:16 3186:1 3196:4 3203:4,5 3212:25
carrying 3003:23
case 2987:23 2988:13 2989:16 2989:24 2990:15 2990:21 2992:17 2994:8 2995:3,17 2995:17,18,18 2997:1,8,11 3000:6 3006:9,11 3006:13,14,17 3011:23 3014:18 3014:19 3021:19 3027:10,14,22 3028:6 3031:2 3033:24 3034:22 3034:24,25 3035:18 3046:2,7 3050:10,21 3051:11,13 3052:2 3054:23 3056:25 3060:19 3062:5 3063:4 3065:23 3069:16 3072:11,21 3073:3 3075:5 3076:13 3077:24 3078:15 3088:24 3090:6 3092:22 3093:19 3094:5 3104:6 3106:12 3106:18 3115:16 3116:7,8 3117:6 3128:15 3132:8 3134:7 3136:21 3136:22,23 3138:24 3139:16 3140:16,21 3141:9,12,13,17 3141:23 3142:1,3 3142:8,9,12,19 3144:2,3,8,16,17 3144:21,25 3145:5,8,16,19,24 3146:10 3147:17 3148:18 3149:25 3150:6,13,14 3151:13,14,18,24 3151:24 3152:5,9 3152:14,23,24 3153:1,12,20 3154:9,14 3156:5 3158:20 3159:9 3160:15 3161:9 3162:9,13 3164:18 3165:10 3165:23 3166:6 3167:9,17,20,24 3170:20,20,24 3171:12 3173:6 3173:16,20 3189:16,22 3196:19 3199:6 3199:18 3200:19 3201:7 3204:4,22 3205:1,12 3208:4 3208:23 3230:14 3234:2 3242:7,24 3244:2 3246:1
cases 2990:12,15 2990:17 2991:3,5 2991:21,24 2992:4,8 2993:3 3004:1 3005:1,3,9 3005:13,17,19,21 3006:1,2 3008:6 3011:16,21 3035:25 3048:3 3049:13 3051:5 3053:2 3066:3,4,6 3067:18 3074:14 3074:15 3077:24 3079:17 3080:16 3083:17 3084:11 3084:15 3085:3 3137:22 3139:16 3139:17 3141:2 3142:15 3143:3,6 3143:14,17,22,23 3143:25 3144:6,6 3144:10 3148:20 3148:22 3149:10 3150:12,22,23 3158:23 3160:6,6 3160:7,14,23 3164:25 3172:18 3172:23 3173:3,4 3196:13 3205:17 3226:13 3227:13 3228:13
Catterall 3025:16
Catterall's 3025:10 3063:3
CBSA 2992:24
cc 3118:5
CCR 3070:22 3073:13 3117:18 3119:7,9,25 3120:25 3216:7
cc'd 3033:16 3143:24
cc's 3169:23
cell 3087:18 3089:19
Cellucci 3110:7 3219:5,8 3220:14
cent 3004:20 3187:12 3226:13
Center 3119:5
centre 3003:8 3014:16 3017:15 3023:8 3070:23 3079:14 3117:18 3168:1,4 3187:15
certain 2998:20 3022:22 3023:11 3096:14 3097:2 3098:10 3175:20 3235:2 3243:12
certainly 3005:24 3035:4 3135:12 3166:4 3182:6,25 3195:24 3201:23 3202:6,23,25 3211:3 3216:18 3243:14
chain 3138:8 3148:11 3238:22 3239:11
challenge 3242:5
chance 3021:8
change 3067:8 3101:20 3116:22 3120:16
changed 2998:17 3229:20
changes 3083:2
changing 3083:14
channel 3080:19
channels 3048:14 3048:16 3050:6 3091:8
chap 3123:21
characterizes 3239:22
charge 3130:1 3168:17
charged 2992:1 3060:1 3198:1,6 3199:8
charges 3024:24 3030:12 3031:20 3042:5 3043:22 3044:19 3058:2,8 3059:3 3068:16 3070:6 3143:13 3180:8 3208:7,25
chart 2988:19 2996:20 2997:2 3000:9
Charter 3227:6,19
check 3045:14 3057:13 3137:17 3207:21 3208:21 3209:1 3214:6 3232:21
checked 3089:23
checking 3228:1
Cheers 3214:10
child 3016:6
China 2989:8
choice 3048:15
choose 3139:13
choosing 3245:25
chose 3242:2,9
chronology 2988:9 2992:11 3009:22 3020:5 3025:2 3036:8 3051:13 3064:15 3102:1,3 3102:13 3107:24
CIDA 3126:19
CID/NSOS 3113:4
circle 3020:7
circumstance 3217:15
circumstances 3098:8 3121:14
citizen 2993:15 3002:18 3008:17 3051:15 3067:13 3103:10 3117:3 3187:25 3189:21 3197:3,14 3198:10 3232:5
citizens 2990:22 3019:12 3225:7
citizenship 2992:22 2993:12,13,16 3019:14,16 3083:7 3086:6 3103:9 3127:6 3231:21,24,25 3232:18
citizen's 3106:12
City 3013:24 3014:5 3016:25 3026:10 3037:9 3045:22 3239:19
civil 3117:20
claim 3117:17 3118:7 3119:19 3119:24 3120:14
clarification 3023:3,20 3100:11
clarifications 3008:11 3100:15
clarify 3024:24 3074:7 3100:11 3124:13 3135:14 3137:13,19 3203:12 3209:13 3223:9 3236:6,10 3244:11
clear 3018:2 3145:23 3148:9 3152:22 3173:13

3202:14 3215:17 3218:15
clearly 3076:12 3153:19 3173:2 3184:19,21 3228:14 3235:21 3235:24
client 3070:10,11 3178:23 3207:4
clients 3063:19
close 3110:23
closest 3238:19
CNGNY 3101:16
cocktail 3095:19 3096:4
cognisance 3026:16
collaborate 3119:18
collaboration 3007:24 3120:11
collaborations 3048:13
collaborator 2986:12,12
collateral 3184:20 3184:21
colleague 3185:4
Collins 2986:10,11 2986:13,16,18,19 2986:20,23,23 2987:2,4,9,11,16 2987:21 2988:2,4 2988:6,11,17,21 2988:23,25 2989:5,9,12,20 2990:11 2992:7 2992:12 2993:8 2994:23 2996:2,6 2996:10,22 2997:5,9,13,16,19 2997:22 2998:2,7 2998:14,18,25 2999:4,9,15,18,22 3000:2,5,8,13,20 3000:25 3001:4,8 3001:13,19 3002:15 3003:6 3004:2,5,11,15,19 3004:25 3005:5 3005:11,15,20 3006:4,7,13,19 3007:5,11 3008:6 3009:1,7,13,18 3010:3,8,11 3011:4,8,10,14 3012:4,8,11,18,21 3012:24 3013:2 3014:2,6,10,14,24 3015:2,6,22 3016:11,15,18,20 3017:2,9,13,16 3018:4,12 3019:4 3019:24 3020:6 3020:16,25 3021:3,12,17 3022:24 3023:2,7 3024:3,6,11,14,17 3024:22,25 3025:7,11,21,25 3026:7,12,18,21 3027:2 3028:10 3028:14,18,22 3029:18,21,24 3030:3,7,22 3031:10,12,17 3032:22 3033:2,4 3033:11,15,17 3034:24 3035:21 3036:1,10,15,18 3037:10,13,16,19 3038:7,13,17,24 3039:2,6,10,13,18 3039:21 3040:1,6 3040:15,21 3041:6,11,13,19 3041:25 3042:7 3042:10,16,20 3043:15,19 3045:12,25 3046:3,8,15,18,20 3047:11,14,24 3048:4,7 3049:8 3049:11,14,19 3050:4,6,10,22 3051:2,6,17,25 3052:4,7,11,17,21 3053:5,11,14,16 3054:4,7,10,13,21 3055:1,7,9,14,19 3055:25 3056:4,7 3056:10,15,20,24 3057:11,17,21,23 3058:20,23 3059:14 3060:8 3060:11,15,23 3061:3,6,14,16,24 3062:2,8,11,13,17 3062:25 3063:6 3063:18 3064:8 3064:16,19,22 3065:9,25 3066:4 3066:8,11,14 3067:9,22 3068:2 3068:5,22 3069:1 3069:5,8,15 3070:7,25 3071:5 3071:13,18,25 3072:8,12,19,24 3073:2,7,11 3074:4,10,22,25 3075:3,9,13,25 3076:4 3077:1,6 3077:10,19,23 3078:13 3079:1,4 3079:15 3080:7 3080:15 3081:4,8 3081:12,15,23 3082:1,6,10,15,20 3083:20,24 3084:3,7,16,21,24 3085:4,14,18,20 3085:24 3086:2,5 3086:9,15,23 3087:6,8,14,23 3088:9 3089:8,11 3089:14,17 3090:12,17,20,23 3091:4,11,16,21 3091:25 3092:14 3092:17,20,24 3093:2,9,20 3094:2,6,14,19 3095:5,16,20,21 3096:2,10,13,17 3096:19 3097:5,8 3097:14 3098:17 3098:24 3099:3 3099:11,15 3100:2,7,16,21 3101:14,18,20 3102:11,14 3103:2,16,20,23 3103:24 3104:3 3104:13,20 3105:1,6,21 3106:2,13,19,22 3107:1,6,8,14 3108:9,12,16,21 3108:24 3109:6 3109:11,14,20 3110:15,20 3111:5,11,14 3112:18 3113:21 3114:1,5,11,17,23 3115:5,9,17,20,24 3116:5,10,12,18 3116:25 3117:4,9 3117:19 3118:2 3118:10,17 3119:13,20 3120:1,4,12,19 3121:1,6,10 3122:13,15 3124:16,21 3125:6,12,15,17 3125:20,23 3126:1,3,7,13,17 3126:21 3127:3 3127:11,15,18,21 3127:24 3128:2,6 3128:11,17,20,23 3129:1,6,12,15,19 3129:24 3130:7 3130:12,20 3131:5,12,23 3132:2,6,9,12,20 3133:2,5,11,17,25 3134:16,20 3135:1,7,12,22,24 3136:2,4,11,17 3137:1,4,23 3138:2,7,10,13,17 3138:21 3139:2,5 3139:8,11,18 3140:5,7,10,23 3141:6,11,18,22 3142:5,11,17 3143:5,8,12,20 3144:14,22 3145:1,11,21,25 3146:25 3147:5 3147:12,15,23 3148:7,23 3149:8 3149:17,20,24 3150:4,10,22,24 3151:2,8,17,25 3152:6,13,25 3154:6,15 3155:2 3155:6,9,11,13,20 3155:24 3156:3 3156:10,15,24 3157:6,13,21 3158:1,6,10,24 3159:7,11,15,19 3159:24 3160:5 3160:10,16,24 3161:2,6,10 3162:11,15 3163:7,10,16,21 3164:6,11,22 3165:3,11,16,24 3166:7,11,19,25 3167:4,12,25 3168:3,10,14,25 3169:11,17,25 3170:10,13,23 3171:10,19,22 3172:1,20 3173:1 3173:8,12,20 3174:16,20 3175:2,7,10,13,17 3175:21 3176:1,6 3176:9,12,17,25 3177:8,11,15,21 3178:1,5,9,13,19 3179:4,10,16 3180:18,24 3181:1,8,18 3187:2,6,10,13,24 3188:6,10,18,23 3189:9,12 3190:7 3190:12,23 3191:6,15,19,23 3192:2,7,10,13,17 3192:21 3193:9

3193:25 3194:9 3194:17,21,25 3195:4,8,12,25 3196:9,14,17,21 3197:5,10,15,19 3197:24 3198:5 3198:15,20 3199:11,15 3200:2,17 3201:6 3201:17 3202:18 3202:20 3203:9 3203:16,20,23 3204:2,10,13,17 3204:21 3205:4 3205:14,24 3206:7,21,23 3207:2,7,25 3208:6 3209:10 3209:19,23 3210:5 3211:6 3212:6,9 3213:6 3213:11,23 3214:19,21 3215:6,11,20,23 3216:1,10,18,22 3217:16 3218:2 3218:21 3219:7 3219:12,16,19,23 3220:2,5,8,10,21 3221:3,13,17,22 3222:14,19,24 3223:7,17,21,25 3224:4,8,11,15,19 3225:3,8,18,22,24 3226:8,14,18,23 3227:14,21 3229:9,22 3230:1 3230:8,16,24 3231:8 3232:13 3233:18,20,23 3234:3,15,18,25 3235:4,7,13,19,23 3236:8,13,20,24 3237:2,6,9,14 3238:1,4,9,14,21 3238:24 3239:7 3239:20 3240:6,8 3240:12,18,24 3241:2,8,9,13 3244:4,24 3245:7 3245:16,20

Collins/JPO 3087:17

column 2997:3

come 2992:14 2995:4,11 3003:3 3003:6,16 3008:15 3031:13 3038:18 3044:13 3058:21 3101:23 3146:22,23 3186:17

comes 3002:5 3059:9 3131:6

coming 2989:15 3004:7,14 3005:14,16 3008:1 3009:3 3011:3 3013:18 3013:21 3015:11 3016:24 3023:8 3024:18 3032:13 3032:14 3033:19 3041:12 3042:22 3044:21 3063:12 3075:17 3076:19 3100:19 3101:11 3104:4 3107:9 3118:1,4 3146:6 3184:25 3241:12 3243:4

command 3138:9

commencing 2986:2

comment 3052:15 3186:19 3195:19

commenting 3088:11

comments 3015:19 3018:10 3105:4 3132:23

Commission 3044:18 3182:19 3201:8

Commissioner 2986:7,9,17,21,24 2987:6 3010:4 3013:6,9 3069:3 3071:15 3073:15 3073:18 3074:10 3074:20 3122:18 3122:21 3123:1,7 3123:11,15,20,23 3123:25 3124:4,5 3130:15 3148:1,2 3158:14,17 3161:17,22 3162:16,19 3170:1 3181:25 3182:6,13 3183:7 3183:23 3185:5,7 3185:23 3186:18 3195:18 3196:3 3200:23 3201:16 3202:10,14 3203:3 3209:21 3210:9,10 3211:20,24 3212:3,7,11,14,24 3213:24 3214:24 3215:8,12,16 3228:2 3229:1,4 3230:20 3233:6 3233:10,14 3236:3 3241:4,7 3241:10,21 3242:6,15 3243:10,19 3244:5,14,18 3245:5,13,18,22 3246:4,10,11

committed 2991:9 3166:17 3231:14

common 3063:5 3079:12 3117:7 3149:15,22,23,24 3150:3,5 3179:1 3187:19

communicate 3019:14 3023:18 3091:5 3231:18

communicated 3120:25

communication 3032:18 3048:2 3157:7 3163:19 3233:16

communications 2996:15 3048:9 3048:14 3090:11 3106:5 3216:23 3232:24 3233:2,4 3243:22

compare 3149:12

compared 3093:18 3149:8

comparing 3041:15 3041:20 3130:4

comparison 3041:18

competition 3125:14,19,25

competitions 3125:21

complete 3060:10

completes 3241:8 3246:5

complex 3006:2 3151:24 3152:23 3153:1,14

complexities 3005:25

complexity 3006:10,10 3142:12 3153:11

compliance 3226:7

complicated 3140:3,21 3142:9

compte 3081:16

computer 3177:13 3177:16

concept 3223:20

concern 3016:14 3035:25 3098:2 3109:4 3166:9,14 3167:6 3186:23 3188:3,12,14 3211:7 3223:15 3225:5 3244:6

concerned 2988:8 2994:19 3104:12 3113:13 3188:9 3188:10 3223:12 3243:24

concerning 2990:7 2992:17 2994:7 3001:2 3004:10 3024:8 3036:8 3042:5,14 3043:14 3047:23 3079:25 3081:10 3113:7,20 3114:20

concerns 3021:15 3078:12 3084:18 3109:2 3118:6 3121:5 3164:14 3166:24 3167:2 3200:24

conclusion 3031:14 3222:2

conditions 3224:13 3225:6

conduct 3230:6

conducted 3241:16 3243:11

conference 3069:10 3082:1,4,9,12,24 3083:22,23 3084:10 3085:12 3086:14,25 3097:9,11,12 3110:17 3147:7 3147:10 3149:2,4 3149:4,10,15,18 3150:2,8,11,16 3151:16,17 3225:25

confidentiality 3109:3 3243:24

confirm 3019:13 3180:7 3199:19

confirmation 2993:16 3031:20 3035:7 3042:14 3044:3 3067:11 3097:23 3098:13 3098:14,16,22 3099:9 3100:4,12 3104:24 3105:14 3120:18 3180:5 3231:21 3232:2

confirmed 3096:3 3096:22 3098:3 3098:25 3099:21

3115:22
confirming 3016:25 3060:21 3067:25 3096:25 3099:20 3104:22 3232:17
confronted 3018:25 3215:25 3217:20
confused 3135:15 3172:14 3222:7
confusing 3102:4
conjunction 2992:25 3229:11
connecting 3164:20
cons 3002:7
consensus 3045:21 3093:4,22
consent 3007:14
consequences 3024:10
consider 3058:18
considerably 3130:6 3131:10
considerations 3195:24
considered 3106:14 3106:21 3140:11 3225:12
considering 3095:3
consistent 3145:14 3148:15 3209:18
Constitutional 3070:23 3117:19 3119:6
consul 3001:21 3043:24 3051:19 3062:7 3077:4 3079:24 3102:19 3102:22,25 3107:17 3129:23 3130:17,22 3219:20 3220:24
consular 2990:8 2995:7,25 2996:4 2996:5,12 2998:4 2999:14,25 3000:2,3,10,18 3001:3,6,11 3006:14,17 3007:22 3008:2 3009:3 3013:25 3018:13,18 3021:20 3024:20 3027:17 3035:10 3037:8 3040:8 3046:13,15,25 3047:8 3048:3 3052:8 3059:17 3059:18 3063:16 3063:18 3065:23 3068:1,1 3069:21 3072:11 3076:7 3077:12 3080:2 3082:24 3085:12 3086:8,9 3105:14 3112:9 3124:23 3126:11 3127:4 3129:13,21 3130:1 3131:11 3137:22 3138:25 3140:12 3145:5,8 3148:17 3155:16 3164:24 3196:12 3197:13 3219:20 3225:6 3226:13 3231:20 3239:11
consulate 2994:25 2999:19 3003:20 3040:14 3046:22 3149:6,6 3231:20
consulates 2994:25 2995:1 3001:21
consuls 3000:3
consult 3123:9 3138:5 3143:4 3144:17,20 3145:17 3148:20 3161:21 3166:21 3167:1 3171:24 3185:4
Consultation 3062:4
consulted 3062:6 3103:18 3133:13 3142:22 3143:18 3145:20 3147:2 3150:21 3173:18 3174:14
consulting 3153:22
contact 3003:9,13 3008:12 3019:10 3027:15 3028:2,8 3029:15 3045:15 3048:20,21 3055:23,25 3063:15 3068:1 3079:22 3080:1 3080:13 3089:3 3094:1,3 3154:10 3154:20 3155:17 3156:22 3193:17 3203:22 3204:1 3204:15 3211:2,8 3212:5 3214:6
contacted 3003:7 3027:6 3036:19 3036:22 3087:17 3088:24 3175:16 3198:11 3211:13
contacting 3198:12
contacts 3003:10 3034:3 3050:1 3210:3 3213:16
contemplated 3117:20 3121:15 3243:10
contemplation 3153:2
contemporaneous 3211:3
content 3033:12 3194:23 3239:24 3245:14
contents 2996:9 3026:17 3029:23 3156:13 3195:2 3237:5
context 2992:12 2995:6 3030:7 3063:25 3117:19
continue 3021:2
Continuing 3072:22
continuous 3163:18
contract 3128:1,7
contrary 3200:11
contribution 3118:7
convened 3108:17
Convention 2990:7 3225:17 3226:7,9
conversation 3017:22 3053:18 3054:14 3064:13 3065:4 3069:10 3075:23 3089:10 3089:13 3104:18 3108:1 3146:2,20 3153:25 3154:22 3155:4 3156:7,13 3157:19 3158:9 3174:18 3177:12 3179:19 3180:16 3181:5,7,9 3209:15 3212:16 3225:24 3234:11 3235:22 3236:11 3237:12,15,19,22 3238:10,13,15 3239:1,3,10,25 3240:16,23 3241:17 3242:10 3242:13 3243:17 3243:20 3245:6,8 3245:14
conversations 3075:19 3133:9 3135:5 3136:13 3176:19 3177:24 3183:25 3184:9 3184:12,14 3185:12 3186:4,9 3238:23 3244:1
cooperation 3042:1
copied 3143:24 3169:14,16,19,22
copies 3209:4
copy 3014:7 3122:3 3205:25
corporate 2994:14
correct 2987:21 2988:2 2996:6 3000:13,25 3005:11 3009:13 3012:18 3014:10 3027:2 3037:10 3038:8 3039:13 3041:6 3043:19 3045:25 3046:18 3051:17,25 3054:10 3082:20 3111:18 3115:17 3115:24 3118:10 3120:1 3125:3,9 3125:12 3126:7 3126:12,17 3127:8,11 3128:13,17 3129:5,18,19 3130:19 3131:4 3131:24 3132:9 3137:23 3138:6,7 3139:11 3145:10 3152:5 3155:19 3155:20 3157:6 3159:11,19 3167:25 3170:4 3170:10,21 3172:25 3175:21 3178:4 3180:17 3191:2,4,14 3192:13 3193:8 3197:11,15,19,23 3197:24 3199:15 3199:22,24 3204:17 3216:14 3220:22 3233:23 3234:21 3235:4 3236:20 3237:6 3245:21 3246:9
corrected 3202:2
correctional 3169:7
Corrections 3038:2
correctly 3130:14 3141:1 3154:3 3174:10 3216:5
correlation 3035:15 3096:8
correspond 3112:16
correspondence 3121:12

correspondent 3110:1
counsel 3185:25 3242:21 3243:12
count 3113:11
counteract 3051:1
counterpart 3009:10 3033:20
counterparts 3049:25 3095:22
countries 2993:2 3048:10 3224:6 3243:23
country 2999:7 3002:2 3019:1,6,9 3022:5 3023:10 3023:12,17 3031:25 3032:3,6 3097:24 3105:17 3106:11 3170:14 3200:1,16 3227:3
couple 2991:24 2999:1 3008:20 3040:2 3118:22 3138:21 3181:14
course 2996:1,8,9 2996:11 3006:16 3014:16 3016:6 3029:13 3072:10 3154:17 3165:8 3174:13 3184:19 3186:10
courses 2994:15 2995:15
court 3078:2 3147:21 3163:24 3183:15 3208:13
cover 2996:8 3006:19 3009:23 3077:22 3131:14 3234:8,10
covered 2992:4 3013:14 3070:19 3107:25
covering 3000:11 3002:9
covers 3169:1
crime 3231:14
criminality 3169:3
crisis 2996:17
critical 3222:10
cross-examination 3123:10 3182:2 3183:21 3186:2 3243:18 3244:9
cross-examine 3242:11,13 3243:2,6 3244:15
Crown 2994:19
CSIS 3008:24
CSIS/RCMP 3108:8
cumulative 3160:14
currently 2990:12
Curriculum 2987:8
curtail 3183:20
CV 2987:4,12 2989:17 2992:16 2994:7 2995:24 3000:16 3128:19 3128:22
C.S.R 3246:25

D

daily 3086:12,12
Damascus 3106:1
danger 3221:21
Daniel 3006:23
database 3080:22 3080:24
date 3057:12 3075:14 3078:5 3100:1 3109:16 3115:12 3191:22 3206:18
dated 3026:24 3062:15 3109:15 3112:24
dates 3231:2
daughter 3239:6
Dave 2997:18,20 3121:12
David 2986:8 2987:1,7,11,18,22 2988:3,7,12,18,22 2989:2,6,11,14,21 2992:3,9,14 2994:5 2995:23 2996:3,7,18 2997:6,10,14,17 2997:21,23 2998:5,8,16,22 2999:2,6,12,16,20 2999:24 3000:4 3000:11,14,22 3001:1,5,9,14 3002:9,24 3003:23 3004:3,7 3004:12,16,21 3005:1,8,12,16,23 3006:5,8,18 3007:9,19 3008:22 3009:2,9 3009:14,20 3010:6,9 3011:1,6 3011:9,11 3012:2 3012:6,10,19,22 3013:1,3,8,11 3014:3,7,11,21,25 3015:3,7 3016:10 3016:13,17,21 3017:3,11,14,18 3018:5,24 3019:21,25 3020:14,23 3021:1,10,13 3022:21 3023:1 3023:25 3024:4,7 3024:12,15,18,23 3025:1,9,23 3026:6,13,20,23 3027:3 3028:12 3028:15,19 3029:14,19,22 3030:1,6,14,23 3031:11,13 3032:13,23 3033:3,13,18 3034:25 3035:22 3036:2,13,16 3037:6,11,14,18 3038:4,9,15,22,25 3039:5,7,11,14,19 3039:24 3040:4,7 3040:17 3041:2,7 3041:12,24 3042:3,8,12,18,21 3043:16 3044:16 3045:13 3046:1,4 3046:13,17,19 3047:10,13,21,25 3048:6 3049:5,9 3049:12,15,23 3050:5,7,19,24 3051:4,9,22 3052:1,5,10,19 3053:3,9,12,15 3054:2,6,8,11,20 3054:24 3055:5,8 3055:11,18,23 3056:2,5,9,13,17 3056:22 3057:9 3057:15,20,24 3058:21,24 3060:2,9,12,16,24 3061:4,11,15,20 3061:25 3062:3,9 3062:12,15,18 3063:1,7 3064:1,9 3064:18,20,23 3065:10 3066:2,6 3066:9,12,16 3067:20 3068:3,6 3068:25 3069:2,6 3069:13 3070:4 3070:17 3071:1,7 3071:17,23 3072:4,9,16,22,25 3073:5,9,14,20 3074:4,22 3075:1 3075:7,11,16 3076:2,5 3077:2,7 3077:16,21 3078:3,19 3079:3 3079:11,19 3080:8 3081:2,5,9 3081:13,20,25 3082:8,11,17 3083:18,21 3084:1,5,9,19,22 3084:25 3085:11 3085:15,19,22,25 3086:3,7,11,16 3087:4,7,9,15,24 3088:10 3089:9 3089:12,15 3090:7,14,18,21 3090:24 3091:7 3091:14,17,22 3092:11,15,18,21 3092:25 3093:3 3093:16,24 3094:4,7,16 3095:2,13,18,22 3096:7,11,14,18 3097:6,13,19 3098:20 3099:2,8 3099:12,16 3100:3,14,17,22 3101:15,19,25 3102:12,15 3103:3,17,21,25 3104:11,16,21 3105:2,19,22 3106:8,14,20,24 3107:3,7,9,23 3108:10,13,19,22 3108:25 3109:7 3109:13,15,21 3110:16 3111:12 3111:15 3112:19 3113:22 3114:2,6 3114:12,18,24 3115:6,10,18,21 3115:25 3116:9 3116:13,22 3117:1,7,10 3118:3,11,18 3119:14,21 3120:2,10,13,21 3121:2,8,11 3122:16,22 3132:24 3145:4,9 3152:3 3200:18 3212:22 3234:9 3236:3,5,9,14,21 3236:25 3237:4,7 3237:11,20 3238:2,5,12,16,22 3238:25 3239:9 3239:21 3240:7,9 3240:13,22,25 3241:3,18 3242:10 3243:15

3243:21 3246:8,9
David's 3243:5
day 3011:12,25 3012:7 3025:3 3026:22 3028:16 3029:25 3038:21 3064:2,4 3069:19 3069:25 3070:9 3070:18 3071:9 3072:23 3086:19 3093:13 3096:19 3102:16 3119:11 3141:5,8,14,15 3142:1,4,10 3145:19 3156:11 3225:12 3240:17
days 3013:23 3079:23 3083:25 3108:14
day's 3026:11
DCL 3052:17,21 3061:18
deal 2990:4,18 2991:23 3033:6 3036:5 3048:23 3049:2 3052:22 3083:8 3094:4 3111:2 3121:3 3124:12 3158:19 3169:2 3196:6 3208:6
dealing 2991:16 2999:17 3003:24 3009:12,16 3010:14 3050:1 3053:2 3061:7 3078:15 3098:5 3127:5,6,7 3133:25 3134:22 3141:4 3143:17 3144:2,3 3150:13 3150:13 3152:13 3152:14 3159:22 3160:13,21 3169:5 3172:18 3191:1
dealings 3007:3,5,7 3009:15 3049:25 3118:25 3224:23
deals 2996:12 3074:13,15 3078:14
dealt 2991:2 3005:9 3134:25 3158:22 3204:11
death 2990:5 2991:1,4,7 3077:25 3144:2
decide 3050:24 3059:25 3138:5 3221:4 3223:1
decided 3029:12 3119:2 3153:7 3157:3 3218:12
decision 3029:10 3030:4 3050:20 3051:3,4,7 3093:15 3114:4 3120:4,7 3121:18 3221:8
decisions 3030:2
deemed 2991:10 3002:23 3231:11 3231:14
defend 3208:12
defender 3208:11
delay 3032:4,4
delicate 3098:24
demanding 2999:5
demarche 3090:21
demonstrated 3216:25
denied 3046:23
department 2987:24 2988:15 2988:15 2989:7 3028:2,8 3029:3 3032:11,16,20 3034:10 3038:1 3039:16 3048:23 3050:18 3069:20 3084:17 3095:23 3102:2 3104:22 3117:23 3126:16 3154:20 3155:17 3156:22 3157:10 3157:14,16,20 3158:5 3168:8,13 3168:25 3169:5,7 3205:3 3209:16 3210:19 3218:8 3226:4 3232:3
departmental 3110:2
departure 3126:24
depend 3139:15 3144:1
depended 3144:8 3149:25 3150:5
depending 3140:23 3142:12 3143:12 3154:15
depends 3032:5 3072:12 3077:23 3140:10 3141:11 3141:12,13,23 3142:1 3150:12 3166:2
deport 3114:4 3217:25 3218:17
deportable 2991:10 3231:15
deportation 2990:6 2991:13,14 3018:21 3019:8 3020:11 3021:16 3067:6 3077:11 3079:12 3083:16 3085:3,5 3105:11 3113:8 3114:10 3114:21 3147:9 3152:4 3162:10 3163:20 3164:4 3167:17,24 3181:10 3191:13 3193:24 3200:1 3200:22 3211:16 3212:2,5 3217:11 3231:4,6,9,17 3232:4,18 3233:22 3236:19
deportations 3233:18
deported 2993:20 2994:1 3018:1,23 3019:1,9 3021:22 3021:24 3066:18 3067:17 3105:8 3132:17 3145:7 3146:8 3164:15 3166:14,24 3167:3 3179:24 3180:3 3181:12 3191:8 3196:7 3197:21 3198:3 3199:11,13 3200:16 3207:17 3221:21 3222:13 3223:15 3228:24 3229:14 3231:17
deporting 3110:11 3234:5
Deputy 3221:5,6
descent 3085:2
descents 3026:2
describe 2989:24 2996:7 3006:8 3008:4 3025:5,24 3051:12 3064:14 3069:13 3107:13 3198:9 3231:5 3234:11
described 3006:24 3013:19 3228:23
describes 2994:9 3026:10
description 2990:10 2992:10 3000:15 3004:8 3036:7 3066:13 3117:17 3118:7 3119:18,24 3120:14 3224:20
designated 3065:17
desirable 3186:10
desk 2987:2 2988:13 2998:9 3011:3,13 3012:12,17 3115:19 3131:6
destined 3019:2
detail 2989:18 2992:10 3002:10 3054:11 3059:10 3062:19 3107:25 3118:13 3198:10
detailed 2993:7 3177:1,2,10
details 3020:5 3022:16 3089:16 3172:22 3173:11 3221:24
detained 3004:23 3004:23 3005:9 3008:9,17 3017:1 3017:7,12 3020:11 3024:5 3037:17,22 3039:25 3040:2,5 3040:10,20,20 3042:6 3050:2 3051:23 3057:5 3060:4 3131:16 3163:6 3237:13 3239:19,22
detainee 3057:12 3159:21 3232:9 3232:15
detainees 3004:16 3004:17 3224:17
detention 2990:21 2996:14 3017:15 3034:12 3035:9 3041:10 3051:24 3069:20 3114:22 3163:20 3168:1,4 3197:8 3224:13 3224:20 3225:7 3226:4 3227:3
detentions 2990:13
determine 3019:16 3166:23
develop 3060:19
developed 3006:16 3098:10
DFAIT 2986:11 2987:3,15 2994:16 2998:9 3001:2 3013:9,11 3036:14 3097:3 3110:22 3111:6 3112:1,10,15 3113:1,7 3117:18 3124:20 3126:6 3127:10,23

3128:16 3129:5 3223:13
DFAIT's 3013:16 3118:6 3119:24 3120:24
dictate 3003:19
dies 3002:18
difference 3128:5 3197:4 3200:19
differences 3199:18
different 3010:12 3083:13 3127:14 3129:25 3149:10 3160:2 3174:8 3186:14 3200:21 3200:21
difficult 3022:14 3022:20 3137:22 3148:22 3160:19 3207:22 3208:1
difficulties 2991:20 3179:11
difficulty 3041:20 3041:25 3042:4 3123:16 3182:18 3183:1 3185:19 3191:21 3224:25
dip 3035:12 3043:2 3043:9
diplomatic 3001:17 3001:20,22,25 3002:6,7,10 3030:3,9 3031:18 3033:7 3034:4 3044:10,15 3046:8,10,24 3047:6,20,23 3048:8,11,12,18 3048:19,22 3050:11 3052:2 3058:19 3059:4 3059:12,20 3070:1 3104:23 3105:4,18,24 3106:4,7,9,15,16 3106:23 3107:4 3121:15 3153:2,7 3170:21 3171:2,6 3171:11,15,16,21 3172:5 3216:12 3216:16 3217:4
dipnote 3030:25 3031:9 3043:12 3043:14 3045:17 3045:24 3046:1,7 3050:3,9,20,25 3121:19 3122:8 3122:13,14 3157:4 3214:9
dipnotes 3049:7 3122:5
direct 3005:4 3007:3 3009:15 3049:25 3133:9 3201:5 3213:15 3237:12
directing 3131:1
direction 3031:15 3131:11
directly 2999:17,25 3001:23 3003:2 3003:13,25 3005:18 3015:8 3017:21 3019:14 3050:17 3061:18 3091:6 3098:2 3119:8 3129:7 3138:14,16 3139:22,24 3165:4 3194:3 3231:19
director 2988:24 2997:25 2998:2,3 2998:3 3007:8 3009:11 3028:25 3050:12,12 3061:17 3076:22 3087:1 3112:8 3151:5 3169:19
directors 2995:21
disclosure 3182:25 3245:4,25
discuss 3027:9 3068:11 3071:19 3072:21 3075:5 3083:1,2 3089:4 3090:6 3140:15 3140:16 3151:18 3156:1,5,5,6,9 3159:4 3162:12 3241:19
discussed 3043:12 3069:16,23 3084:14 3106:22 3106:25 3156:15 3164:4 3172:2 3240:16
discussing 3025:12 3140:20 3156:20 3187:23
discussion 3031:7 3047:22 3068:20 3084:11 3214:2 3234:23
discussions 3085:1 3111:9 3122:4 3214:24
distinction 3005:24 3151:11
distinctions 3006:25
distinctively 3055:16 3178:20 3178:20
distressed 2994:20
district 3076:22
divided 2994:25
division 3061:19 3082:21
divulge 3234:23
document 3020:4 3066:12 3113:11 3120:18 3205:18 3206:6,10 3207:18 3211:4 3222:3,4 3232:3 3232:10
documentation 3232:15
documentations 2994:2
documents 3009:21 3012:11 3013:10 3013:12 3015:20 3109:4 3184:13 3184:17 3198:7 3205:22 3212:16 3212:20 3216:2
doing 3031:24 3077:13 3081:17 3082:13 3092:15 3124:22 3126:10 3129:10,11,17 3149:12,13 3150:10,17 3162:20 3170:12 3184:3 3186:13
DOJ 3154:2 3211:2
door 3139:23 3242:12
downstairs 3072:20
dozen 3005:7
draft 3050:11 3061:2,13,16 3120:14 3122:9 3122:13
drafting 3061:22
draw 3060:22
drawn 3016:12 3213:25
drew 3142:18
dual 3016:1 3019:19 3130:16
due 3101:8 3140:18
duration 2996:8 3021:11 3083:23 3237:24 3238:3
duties 3014:23 3131:14
Dyet 2997:18,20 3121:13
D.C 3030:19 3082:5 3214:16
débute 2986:3

E

earlier 3214:20 3222:8
early 3044:12 3084:3 3086:18 3150:19 3152:22 3172:8
easier 3195:6
East 3012:17 3187:17
easy 2995:9 3209:3
edited 3028:23
educate 3203:2
Edwardh 3243:1
effect 2997:25 2998:22 3038:4 3070:3 3119:23 3210:6
efficiency 3049:24
efficient 3050:1
effort 3241:11
efforts 3038:10 3091:15 3097:3 3166:21
eight 3160:10
either 3001:23 3037:22 3189:8 3199:18,25 3200:7 3205:21 3221:12
elaborate 3146:19
embarking 3184:18
embassy 2989:13 2994:24 2999:13 3001:24 3023:18 3023:19,20 3032:19,20 3034:2 3050:14 3082:18 3089:1 3089:24 3090:5 3092:16 3095:19 3124:22 3125:21 3125:22,25 3126:9 3127:4 3129:25 3130:2 3157:15,20 3158:5 3213:19 3218:5,5 3219:13 3219:18,21 3221:2 3231:20 3232:19,25
emerge 3185:21
emerged 3123:4
emergency 2988:15 2990:2 3003:8 3013:20 3014:15 3023:7 3187:15

emerges 3244:20
emotional 3018:17
employ 2987:15
employed 2989:12 3124:21
employee 3127:9 3127:13,23 3128:3,10,16 3129:4
engage 3224:3
engaged 3124:24 3125:11 3126:10
England 3107:15
English 3178:10,14 3178:21,23
enhance 2994:12
ensure 2995:20 3023:23
enter 3010:16,18 3124:24 3194:12
entered 2991:11 3022:7 3081:6 3177:20 3181:15 3189:18 3226:16 3237:18
entering 3177:17
enters 3022:5
entire 3000:7,12 3201:4
entities 3062:5
entries 3020:1 3052:16 3064:4 3104:1 3107:13
entry 2991:17 2993:25 2994:3 3019:18 3020:1 3025:4,6,22 3026:7 3052:20 3054:20 3064:5 3065:2,5,11,13 3069:6 3071:10 3071:10 3072:23 3074:11,15 3075:2,17 3078:5 3078:9 3081:3,9 3086:17 3091:18 3092:12 3099:17 3099:18 3100:19 3102:15 3107:11 3111:22 3116:1 3116:15,23 3119:11 3121:4
escalation 3152:8
especially 3015:22 3015:25 3232:14
essentially 2996:3 3011:2,4 3014:5 3086:20 3087:5 3100:22 3236:16 3239:16
est 3246:17
establish 3013:15 3150:16
established 3079:22
estimate 3143:19
estimation 3085:6
evaluate 3030:13 3164:17
evaluating 3166:5
evaluation 3165:23 3196:19
evening 3043:5 3044:12 3076:9 3076:17,24,24 3095:20 3156:4 3172:8
event 3195:22
events 3025:2 3026:11 3111:19 3237:1
eventuality 2993:20
eventually 3089:25 3130:22 3178:24 3198:1,3 3218:11
everybody 2995:22 3010:11 3083:5 3084:18 3094:19 3094:22
evidence 3115:13 3129:9 3130:14 3145:3 3152:2 3157:25 3172:15 3184:16,24 3185:11 3186:8 3199:22 3209:17 3216:6 3241:8,12
exact 3235:19
exactly 2987:16 3078:13 3085:9 3085:22 3097:17 3120:6 3147:24 3150:25 3156:25 3159:15 3173:12 3175:3,3 3222:15
exam 3127:17
examination 2987:10 3002:11 3124:10 3230:21 3236:4 3243:5
examination-in-c... 3145:4 3158:22 3242:24
example 2992:21 3001:18 3002:16 3162:13 3245:3 3245:24
examples 3001:15 3002:12 3009:4
exception 3144:11
exceptional 3049:16 3145:16
Excuse 3120:19
exhausted 3048:13
exhibit 2987:8 2996:23,24 3010:7 3013:4 3036:2 3051:11 3111:13 3128:19
exhibits 3035:23
exist 3005:13,25 3008:5 3024:2 3033:6
existence 3005:19 3026:16 3041:8
exists 3111:18
Exit 2991:17 3025:22
expect 3124:5 3201:21
expedited 3205:22 3228:15
experience 2987:19 3018:13 3024:1 3124:12 3125:2 3130:5,6 3131:10 3160:20 3224:16 3231:7
experienced 3035:17 3060:6 3084:12
experiencing 3003:1 3083:3,6 3083:15
expert 2994:11 3140:12
expertise 3140:19
expired 3015:14
explain 3014:11 3020:4 3022:18 3094:17 3095:4 3240:2
explained 3195:12
explaining 3015:13 3120:24 3121:14
explore 3185:14
explored 3093:17
express 3188:3
expressed 3166:9 3186:23 3188:14 3223:14
expressing 3164:14 3164:15
expression 3179:11
expressly 3214:25
extent 3181:3
extract 3111:24 3237:21
extradited 2990:20
extradition 2990:5 2990:18,24
extraordinary 3223:20
extreme 3017:25 3018:17
extremely 2999:5 2999:10 3017:24 3152:23 3154:9 3155:22 3159:9 3161:8,9 3180:2
e-mail 3012:2,5 3033:9 3117:5 3121:11 3148:11 3153:24 3155:3 3171:18 3210:6 3214:1
e-mails 3012:6 3033:5 3141:5 3148:25

F

face 2991:13 3077:25 3234:24 3234:24 3235:8
facilitate 2993:23 2994:3 3003:16 3232:5
facilities 3040:13 3224:20
facility 3063:22 3095:7,11
facing 3177:16
fact 2988:9 2989:21 2990:2 2992:18 2995:24 2996:20 3004:8 3009:25 3014:4 3015:19 3016:5 3017:7,12 3018:2 3018:2 3023:2 3024:20 3027:5 3028:6 3040:19 3044:24 3046:1 3047:1,3,18 3052:15 3063:13 3065:14 3067:11 3067:14 3069:11 3069:24 3071:2 3076:11,21 3093:4 3094:10 3095:25 3096:8 3097:2 3100:5 3111:5 3122:9 3131:9 3137:9,12 3138:4 3152:8 3153:21 3188:4 3188:14 3190:20 3193:21,22 3208:22 3216:4 3224:24 3225:16 3236:22 3237:11 3239:25
factors 3052:6 3153:18

facts 3164:9 3173:6 3225:2
fail 3043:6
fails 3217:3
fair 2999:6,21 3000:17 3006:5 3009:10 3130:4 3130:11,12 3144:13 3145:22 3151:22 3152:21 3152:24 3159:10 3159:20 3160:9 3161:5 3168:6 3174:15,16 3175:22 3176:18 3176:24 3183:4 3194:7 3197:2 3203:10,15 3204:24 3206:22 3217:21 3221:23
fairly 2991:22 3026:8 3105:3 3129:21 3242:25
fairness 3182:20 3183:8,18 3243:3
fall 3004:4 3211:21
falls 3004:5
familiar 2992:6 3017:8,9 3128:21 3173:4 3183:11
families 3000:20,22 3000:23 3032:8
family 3003:4,20 3018:7,15 3019:6 3034:12 3062:21 3067:3 3075:15 3075:21,24 3117:21 3182:12 3182:21 3198:11 3207:10
far 3006:22 3101:22 3133:1 3203:11 3215:1 3215:13 3223:12
fashion 3172:24 3202:4
fax 3031:19 3043:5 3043:21 3044:7 3044:11,17 3045:1 3063:12 3171:8 3172:3,7
faxed 3122:3 3163:14
fear 3017:25 3018:22 3019:8 3019:19 3066:18 3236:18
fears 3019:1 3021:25 3164:16
federal 2992:19 3079:13 3239:23
feel 3172:8 3229:10 3230:4,11
feeling 3018:20
feels 3003:21
feet 3088:14
fellow 3198:9
felt 3063:21 3144:16,19 3177:22 3189:12 3189:15 3243:16
fifth 2994:7 3114:12
figured 3093:12
file 2987:4 3010:2 3014:16 3118:24 3133:1,6,10 3134:15 3149:4 3149:16 3153:19 3167:16 3201:1,4 3204:9,16,20 3231:18
filed 3019:22 3035:24 3044:17 3065:7 3111:13 3111:21
files 3004:9,13 3119:3 3131:1,16 3134:19 3198:22 3198:23 3200:14 3201:24 3203:2
fill 3082:23
final 2994:6 2995:23 3012:10 3050:16 3051:2,2
finally 3114:24
find 3039:19,24 3057:8 3096:11 3157:25 3206:11 3206:25 3207:21 3207:22 3208:24 3209:6 3212:18 3213:9 3229:15
finding 3041:20 3156:17
finds 3240:2
fine 3146:21,25 3158:18 3161:18 3170:3 3204:23
fingerprinting 3026:1
finish 3123:14 3158:16 3186:16
fire 3088:14
firm 3022:16 3185:17
firs 3030:23
first 2987:14 2990:1 3026:15 3028:4 3031:19 3033:9,10,15 3035:14 3038:14 3041:7 3045:8,16 3046:10,11 3051:14,20 3055:21 3061:21 3065:7 3073:2 3083:22 3090:7,9 3090:15 3104:5 3106:15 3109:7,9 3113:17 3121:25 3124:12 3126:14 3138:9,12 3139:14 3144:16 3144:20 3146:1,4 3146:9 3167:14 3167:15 3169:23 3171:10 3173:23 3179:14,18 3180:16 3186:25 3187:2 3189:17 3197:10 3201:7 3204:14 3214:8 3238:10,13,14,25 3239:18
five 2989:21 3033:5
Floc'h 3026:9
floor 3039:22,23 3153:5 3159:10 3159:14
fluent 3179:7
fly 3015:15,16
focusing 3132:14 3191:9
folks 3214:16
follow 3044:25 3045:18 3061:12 3071:2 3157:12 3214:10
followed 2995:25 3041:5 3075:12 3243:13
following 3026:18 3042:25 3064:20 3066:19 3068:7 3078:17 3081:18 3081:21 3089:13 3089:21 3113:3,5 3122:2 3156:3 3157:9
follows 3034:20 3058:7
follow-through 3073:6
follow-up 3057:16 3088:3 3089:6 3119:10 3171:18
foot 3097:3
force 3032:9
forced 3188:16
foreign 2987:16,24 2988:16 2989:7 2993:2 3001:23 3003:17,18 3029:11 3036:22 3039:16 3061:8 3065:18 3075:5 3075:10 3102:2 3105:25 3106:11 3109:18 3117:23 3124:24 3125:4 3218:9
foremost 2993:9
form 3048:8 3217:9
formal 3001:25 3002:1 3048:15
formally 3127:20
forth 3178:25
forward 3018:6 3200:12
found 3039:21 3040:23 3041:8 3047:8 3051:20 3069:17 3132:16 3183:10 3198:14
four 3078:22 3083:9 3160:5,6,7 3161:2 3196:6
fourth 3044:20 3058:3,6 3065:13 3065:13 3117:13
fourthly 3114:6
frankly 3214:14
free 3242:12
freeze 3157:7
French 3178:10,14 3178:21,24
frequent 3149:9
Friday 3068:13 3070:18
friend 3003:14 3018:15 3075:21 3075:24 3076:5 3077:2 3201:2,11 3202:11 3233:25 3241:19 3242:2
friends 3191:4
front 3019:7 3124:15 3177:5
frozen 3048:20
full 2986:21 3033:11 3224:19
fulltime 3000:10 3127:9,13,23 3128:7,8 3129:4
fully 3023:23 3136:20 3186:6
full-time 3128:16
fumbled 3228:20
function 2993:7 2994:8,22 2997:18 2998:23 3006:21 3063:17 3087:3 3129:11

3129:14,17 3130:10 3131:13 3204:5 3213:5 3217:21
functions 2998:20 2999:1 3000:16 3003:24 3006:25 3012:13 3061:2 3124:23 3126:8 3126:11,15 3127:3,5 3187:14 3208:14 3225:6
fundamentally 3043:13
further 3023:20 3031:23 3059:10 3089:3 3100:15 3101:4 3111:2 3112:10
future 3242:19

G

game 3049:19
Gar 2998:1,6 3007:9 3029:15 3068:8,9,9 3085:25 3088:6 3088:25 3089:4 3101:12 3109:18 3109:19 3112:6 3112:14 3118:5 3210:17
Garvie 3111:13 3112:23
Gar's 3074:16
gather 3101:16 3111:7
gauge 3006:10
general 2992:12 2998:3,4 3007:8 3010:12 3024:13 3024:14,15 3028:25 3043:25 3045:21 3047:22 3050:12 3087:1 3107:17 3112:8 3130:17,22 3151:5,5 3167:3 3168:12,17 3169:19 3173:6,8 3177:6 3220:17 3231:20
generals 2995:1 3001:21
general's 3013:25 3037:8 3062:7 3079:24
gentleman 3155:5
geography 3084:22
Gerson 3219:21,23
getting 3008:10 3023:24 3026:3 3042:1 3048:13 3049:24 3053:21 3057:18 3058:17 3059:6,13 3070:4 3081:10 3088:12 3098:16,22 3105:17 3130:18 3157:9 3224:25 3227:25
Girvan 2986:12,15 2992:4 3010:2 3013:15 3026:9 3029:15 3030:20 3033:19 3042:24 3043:21,24 3044:21 3045:19 3057:25 3059:16 3060:18 3062:19 3062:20 3063:9 3063:12 3064:21 3065:7 3066:17 3067:24,25 3069:12 3070:20 3070:21 3075:19 3076:20 3078:20 3081:7,21 3085:16 3091:2 3091:23 3093:10 3094:8 3095:20 3096:23,24,25 3097:7,10,20,22 3101:17 3103:1 3118:4,12 3120:23 3121:12 3121:13,17 3129:4,7 3130:5,7 3130:20 3131:21 3135:19 3137:21 3147:13,16 3150:7 3151:2 3153:24 3154:25 3155:4 3156:4 3157:24 3159:2 3166:13 3167:22 3170:5,19 3182:3 3196:6 3202:17 3202:20 3205:18 3206:14 3207:9 3210:3,8 3211:9 3213:4 3214:12 3214:25 3216:5 3217:5 3225:16 3225:20 3226:1 3228:12
Girvan's 3097:24 3098:13 3128:19 3128:22 3130:5 3130:14 3175:23 3209:17 3222:9
give 2992:10,21 2993:6 2995:12 3001:14 3002:15 3007:13,16 3009:4 3011:11 3022:15 3031:15 3036:7,16 3043:20 3044:6,6 3044:10 3046:4 3047:25 3049:5 3049:18 3054:17 3073:13 3081:1 3082:13 3086:22 3089:15 3093:12 3119:5,8 3131:20 3137:21 3138:4 3143:20 3151:21 3162:23 3164:24 3165:1 3172:3,6,9 3182:4 3183:3 3184:24 3185:17 3198:20 3206:10 3206:12 3241:12 3242:25 3245:25
given 2990:15 3004:10 3016:2 3041:22 3067:13 3085:5,8 3095:11 3095:12 3118:12 3131:9 3140:19 3151:14 3153:9,9 3154:5 3175:19 3183:24 3189:15 3193:15 3196:12 3196:24 3200:25 3202:1 3206:1 3208:21 3221:25 3225:17 3228:14 3229:10 3231:25 3240:5 3241:25 3244:21
giving 3064:19 3081:16 3105:14 3121:17 3131:10 3132:1 3184:1 3236:18
Globe 3109:25
go 2995:6 2997:1 3000:8 3001:20 3007:6,12 3010:17,21 3013:4 3016:17 3017:18 3026:6 3029:22 3030:8 3033:3 3037:2 3048:15 3055:20 3056:5 3057:20 3058:15 3060:17 3060:25 3062:18 3063:1 3064:3,23 3065:6 3067:20 3070:3,17,18 3072:14,17 3074:5 3079:19 3080:25 3085:19 3086:19 3087:9 3091:17 3096:18 3100:18 3101:20 3102:9 3103:3,21 3104:2,16 3107:12 3108:3 3109:21 3110:19 3111:15,20 3115:11,25 3116:14,23 3117:12,14 3118:11 3119:4 3124:9 3125:1,13 3127:13 3128:18 3134:3 3138:12 3138:14,15 3139:14,16,17,23 3140:2,2,8,21 3141:15,16 3144:12 3154:1,2 3154:19 3155:6 3158:12 3161:14 3163:24 3169:10 3170:16 3176:5 3176:11 3177:17 3188:11,12 3196:25 3202:15 3206:9 3208:23 3210:6 3213:1,10 3215:13 3218:12 3218:12,18 3219:25 3220:10 3220:11,19 3221:4 3238:16 3244:18
god 3217:24 3218:17
goes 3014:17 3242:20,21
going 2987:20 2990:20 2993:17 2995:17 3002:22 3007:23 3014:4,5 3015:8 3019:2,9 3023:10 3033:13 3033:19 3041:17 3042:24 3044:6 3044:22,25 3045:22,23 3050:25 3059:2,4 3059:9 3060:21 3060:22 3063:14 3063:24 3066:24 3067:17 3069:24 3074:5 3076:2 3082:5 3086:14 3093:13,14 3098:4 3101:19 3109:17 3117:10

3119:22 3120:16 3121:16 3123:8 3123:14 3124:9 3124:11 3139:13 3139:19,24 3146:23 3153:9 3153:17 3161:14 3161:21 3162:6 3163:5 3172:11 3180:20 3182:11 3183:17 3195:15 3200:16 3201:2 3203:5 3206:18 3207:17 3216:14 3221:24 3222:1 3234:22 3241:18 3242:1
good 2986:7,8 3010:24 3016:16 3162:20
Google 3209:3
government 2987:20 3048:2 3068:15 3166:18 3189:20 3200:12 3201:22 3205:11 3230:5,12 3242:19,21,22 3243:21 3245:3 3245:25
GPD 3109:19
grace 3093:8
Graham 3220:15
grave 3221:15
great 3140:19
greater 3185:19
greatly 3118:20
green 2991:20
grows 3152:9
guarantee 3200:3
guess 2995:9 3003:11 3006:7 3006:15 3008:14 3016:9 3019:5,7 3026:3 3031:23 3035:8 3037:21 3040:18 3041:19 3042:13 3052:22 3059:24 3060:20 3063:22 3068:18 3079:4 3080:19 3083:16 3091:8 3095:9 3099:6 3145:12 3171:18 3182:17 3190:8 3209:10 3216:24 3222:6 3227:6 3231:10 3240:6
guessed 3229:17
guests 3096:15
guidance 3134:8 3140:14 3141:10 3146:1,16 3182:5 3193:13 3229:12
guidelines 3018:9

H

h 2986:4 3073:24 3074:1 3162:1,3 3246:18,19
habits 3012:3
half 3074:12
half-page 3200:25
hand 3043:10 3148:16,19 3230:2
handcuffed 3224:25
handle 3011:12 3144:11 3185:24
handling 2998:23 3003:25 3006:1 3106:11,17 3165:9 3195:19
hands 3212:18
handwritten 3180:21
handy 3101:21
hand-deliver 3050:17
hang 3020:9
happen 3218:24
happened 3035:16 3094:13,18,20 3125:5 3150:5 3157:11 3166:15 3173:19 3187:11 3196:13 3197:21 3197:25 3199:6 3216:13 3218:25 3219:2 3221:1,19 3228:13,18
happening 3018:16 3035:15 3081:16 3107:2
happens 3131:15
Harris 2988:23 3025:12 3028:24 3029:17,23 3030:18 3031:8 3031:14,15 3034:5 3043:11 3055:13,15 3062:14 3086:21 3086:25 3087:10 3087:15 3089:10 3089:20 3090:15 3100:23 3106:6 3133:21 3134:4 3135:21 3136:20 3142:20 3151:4 3156:4,9,13,20 3169:18 3170:9 3171:24 3173:18 3173:23 3174:4 3174:11,18 3193:8 3245:8
head 3132:8 3168:12,13
heading 3168:23
headnote 3101:1 3101:10
headquarters 2987:3,23 2995:9 3070:14 3080:3 3080:14 3130:23 3131:18
hear 3099:12 3160:16 3185:24
heard 3037:20 3063:10 3090:8 3097:24 3098:6 3154:4,13 3155:15 3184:16 3184:24 3199:3 3201:22 3223:19
hearing 3076:16 3077:11 3163:22 3174:5 3246:15
Heatherington 3009:11
held 3058:10 3082:25 3114:25 3125:21 3159:25 3160:1
Helen 2988:23 3025:12 3028:24 3029:17 3030:18 3031:8 3034:4 3043:11 3045:9 3055:13 3062:14 3086:21 3089:10 3090:15 3100:23 3133:20 3134:4 3156:4 3169:18 3170:8
Helene 3045:10 3082:15,17 3098:17 3100:19 3158:2 3209:19 3214:5,20,21 3216:25
help 3021:18 3022:12 3055:20 3057:7 3122:22 3135:16 3138:18 3139:21
helped 3164:17 3209:7
helpful 3074:21 3079:23 3080:13 3142:14 3166:5 3208:25 3242:4
hierarchy 3130:15 3130:16 3131:3
high 3004:21 3048:9 3142:19 3143:14 3152:10 3152:15
higher 3006:17 3029:11 3049:2 3134:1 3145:8 3148:17 3218:3 3218:12 3220:20
higher-ups 3145:17
highest 3002:1 3027:24 3029:1 3167:21 3205:13
highlights 2987:12
highly 3015:24
Highsler(ph) 2998:19
high-profile 2995:17 3152:5
hindsight 3228:7
hired 3125:10,25 3127:20
hiring 3127:14 3207:10
hold 3038:6 3157:3
holding 3079:14
holds 3103:8
home 3022:12 3123:6
honestly 3141:14 3141:23 3144:5,7
hopefully 3089:2
hoping 3095:8
hosted 3112:1
hotel 3089:23,23
Houd 3015:14
hour 3026:24
hours 3003:8 3032:5 3093:5 3225:11
housekeeping 3209:13
hum 3163:22
human 3166:17,22
hundred 3012:9
hung 3054:1 3193:1
hypothetical 3217:7,17,19 3218:22 3221:19
hypothetically 3218:25

I

idea 3005:3 3011:11 3039:23 3045:23 3049:6 3053:24 3146:5 3157:8
identified 3041:15

identify 2993:11 3020:24 3054:8
identity 3114:20 3243:7 3244:3,6 3244:13,25
illegal 3015:24
illegally 2991:12
imagine 3196:1
immediate 2997:14 3015:9 3132:5
immediately 3010:17 3038:20 3089:22,24 3092:3 3100:8 3105:10,17,18 3154:8 3177:13 3184:10 3220:12 3222:2
immigrant 2993:14 3051:16 3197:6
immigration 2990:6 2991:15 2991:19 2992:22 2993:13 3019:16 3037:23 3058:11 3059:7,24 3066:20 3079:14 3080:20,22 3101:9 3103:6 3126:15 3159:4 3169:4 3197:22 3198:1 3199:8 3205:6,20 3206:16 3207:1 3207:19,23 3208:13 3209:5 3213:19 3231:16 3232:4
Immigration/dep... 2991:8
implication 3012:13
important 2993:17 3135:10 3174:3 3175:24 3176:11 3177:19 3184:20 3189:3,24 3208:14,20 3215:5
impossible 3172:22
impression 3137:11
inability 3227:19
inadmissible 3195:21 3206:20 3231:12
incarcerated 3225:11
included 3040:10 3115:15 3185:21
including 3130:24 3151:15
incoming 3010:15 3011:15
independent 3103:18 3128:3 3237:8 3238:7
independently 3098:13
indeterminate 3128:3,5
indicate 3020:14 3032:3 3103:12 3174:23 3226:2 3238:3
indicated 3040:22 3069:18 3091:23 3110:21 3202:8 3215:4 3225:20 3228:15 3237:21 3237:24 3240:10
indicating 3021:21 3118:19
indication 3054:17 3072:5,6 3199:1 3200:14 3204:19 3204:25 3205:11 3206:5 3212:22
individual 2993:12 2996:17 3003:13 3008:8 3010:20 3010:22 3019:17 3023:23 3032:7 3037:21 3057:2,2 3057:4 3080:18 3092:7,10 3153:13 3172:23 3206:1,3 3208:8 3227:1 3232:22 3244:3
individuals 3011:22 3019:11 3060:14 3080:17 3086:6 3095:1 3147:11 3224:6 3243:8
ineligible 3231:12
info 3014:7 3088:4 3089:7
infocopied 3005:21 3015:8 3017:4 3026:14 3034:16 3057:25 3080:9 3222:3 3238:18
infocopy 3014:18 3015:10
inform 3062:21 3072:18 3090:18 3227:3 3235:3
informal 3031:25 3048:14 3050:6 3216:23 3217:1
informally 3027:21 3045:15 3214:7
information 3007:17,23 3008:3,12,25 3010:19 3014:22 3015:11 3021:14 3021:18 3022:22 3023:22 3024:8 3026:4 3027:17 3031:2 3034:11 3034:14 3038:5 3043:22 3044:7 3053:21 3054:15 3059:7,13 3065:22 3070:5 3071:3 3074:14 3079:24 3080:11 3087:12 3088:16 3091:2 3097:7 3098:8,21 3100:9 3100:12,23 3101:1,2,11 3102:24 3103:19 3110:18 3112:11 3113:18 3119:3,8 3153:12 3156:1 3163:3 3164:19 3164:23,25 3165:2,5 3166:4 3168:6 3172:17 3175:24 3177:17 3177:19 3180:11 3186:14 3189:4 3193:14,14,15 3194:10,11 3198:21 3200:10 3200:11,13 3201:12,19 3202:3 3208:11 3213:8,18 3216:5 3216:7 3217:12 3221:24 3228:9 3229:10,19 3230:2,5,13 3232:1 3236:17 3242:3 3244:21 3245:4,9,10,19,21
informed 2995:22 3002:19 3005:12 3008:16,21 3024:19 3036:23 3037:1 3040:10 3047:16 3076:12 3076:21 3097:18 3101:5 3103:4 3144:4 3179:23 3180:4,8 3227:1 3233:3
informing 3064:16 3076:20,23 3078:21
informs 3207:9
infraction 3101:9 3103:6
initial 3019:8 3146:9 3203:18 3203:21
initially 3204:3
initiated 3151:4,9
initiative 3071:24
inmates 3159:24
input 3117:22 3119:15,22 3120:24 3121:18
inquiries 3214:15
inquiring 3077:3
inquiry 3107:19 3185:13
INS 3027:6,16 3032:14,24 3037:25 3076:9 3076:22 3077:11 3079:6,14,16,18 3080:3,14,19 3103:5 3115:2,3,4 3154:1,10,22 3155:5 3167:16 3167:19 3168:7 3168:12,17,24 3228:16 3244:23
insight 3081:1
insofar 3243:7,15
instance 3002:17 3009:8 3048:18 3063:21 3072:13 3085:7
institution 3160:2 3239:22 3240:14
instructed 3119:17
instructions 2995:7 3123:17 3130:18 3131:22 3132:1 3137:21 3138:4 3184:2 3195:16
intended 3062:22
intending 3242:22
intent 3193:21
interested 3244:12
interesting 3226:12
interestingly 3092:11 3105:2
interests 2993:4 3070:11
interim 3182:23 3183:6
interlocutor 3205:5
international.gc.ca 3003:11
Internet 3123:6
interrogated 3224:7
interrogation

3163:14
intervene 3005:2 3029:10 3032:15
intervening 3002:13 3005:18 3086:21
intervention 3001:16 3005:4 3013:16
interview 3076:21 3076:23 3077:5 3126:1,2 3211:15
interviewed 3110:3
interviewing 3026:1 3127:1
interviews 3077:11
intrigued 3226:11
intrigues 3225:15
introducing 3202:2
introduction 3018:7 3180:14
investigation 3048:25 3164:21 3165:22 3197:17 3199:8
investigations 3197:25
invited 3095:23
involved 2988:14 2999:25 3014:12 3017:21 3086:22 3091:2 3094:10 3116:8 3118:25 3133:6 3144:25 3147:11 3148:10 3150:19 3151:6 3159:13 3197:18 3203:14
involvement 3063:4 3121:22
involving 3149:5
irrelevant 3052:25 3053:3 3189:13
ISA 3071:15
ISD 3006:25
ISI 3006:21,25 3007:4,6,7,17,23 3007:24 3008:1,6 3008:11,15,19,23 3009:3,11,15 3055:20,22 3108:8 3165:2,4 3166:21 3167:2,5 3167:7,8 3213:5
ISI's 3072:11
issuance 3001:17 3001:20 3031:9
issue 3009:22 3033:6 3034:1 3045:23 3048:11 3050:9,13 3056:17 3057:16 3058:19 3059:12 3059:15 3061:1 3070:1 3074:7 3081:22 3098:5,7 3117:17 3118:8,9 3121:5,13 3156:6 3158:20 3183:8 3184:20,21 3187:18 3189:7 3207:12,13 3236:10 3244:3 3244:20
issued 3048:11 3232:3
issues 2990:6 2991:15,19 3046:25 3118:8 3123:3 3127:6 3146:23 3182:20 3185:20
item 3107:23 3240:9
items 3084:10 3240:15
itinerary 3015:15
i.e 3027:25 3235:15

J

J 3071:16
Janis 3082:16,20
jeudi 2986:3
JFK 3027:16
job 3022:19 3162:20
Johansson 3246:24
John 2997:15 2998:5 3015:9 3132:6 3238:19
Jonathan 3009:16 3055:22 3057:18 3071:18 3078:7 3116:3
Jordan 3103:13 3104:24 3105:20 3114:25
JPD 3101:11
JPD/Pardy 3099:21
JPE 2988:20 3003:8 3013:20 3014:4 3030:17 3062:6 3086:21 3086:22 3087:1,3
JPO 2986:14 2997:2 2998:1,3 2999:8 3000:5 3014:8 3085:23 3103:4,14 3129:14 3131:17 3198:16,17 3203:19
judge 3231:16
judged 3229:12
judgment 3230:13
judicial 3077:17
July 2987:20 2998:18 3126:9
jump 3172:4
jumping 3044:9 3222:2
June 3117:11 3118:15 3126:9
justice 3028:3,9 3029:3 3032:16 3032:20 3034:10 3045:15 3154:20 3155:18 3156:22 3157:10,15,17,20 3158:5 3168:9,13 3169:1,5 3205:3 3209:16 3210:19 3213:12 3214:7 3227:14,16
justifications 3030:9

K

keep 3101:21 3176:4 3184:2
Ken 3107:15
kept 3022:10 3198:12,13 3224:24
key 3196:18
kind 3032:17 3063:17 3127:14 3127:17 3226:16
kinds 3001:15
knew 3051:23 3091:14 3153:8 3153:10 3159:9 3189:20 3214:1
know 2992:3 2993:24 2995:22 2999:9 3004:17 3007:16 3009:5,8 3015:14 3016:7 3016:16 3018:19 3019:11,12 3022:1,25 3023:10,23 3028:4 3037:16 3037:18 3040:7 3054:4,6 3059:16 3063:8 3075:11 3080:12,19,20 3085:4 3094:22 3098:4,15 3100:3 3104:11 3106:22 3106:24 3107:6,7 3110:13 3120:8 3133:5 3135:16 3135:18 3136:16 3137:16 3145:7 3147:24 3158:13 3159:2 3168:18 3170:11 3173:21 3174:20 3179:3,7 3182:4 3183:2 3190:8,12 3193:9 3193:13,16 3194:10 3198:22 3200:5 3201:20 3206:5 3207:20 3211:5 3215:2,5,6 3215:10,11 3217:18 3218:23 3221:25 3226:11 3228:6 3230:4 3237:16 3243:20 3244:13
knowledge 3024:14 3024:15 3057:15 3075:12 3080:5 3091:3 3093:16 3103:1 3106:9 3107:4 3119:23 3122:12,15 3154:25 3187:19 3201:6 3202:12 3211:13,19 3224:18
known 3008:8 3069:16 3233:24

L

lack 3046:25 3047:7
landed 2993:14 3051:16 3197:5
language 3028:5 3178:8 3179:8 3181:6
languages 3178:10 3178:22 3179:3
Laporte 3130:21
lasted 3238:6
lasts 3146:20
Laughter 3124:7 3186:20 3233:12
launched 3049:1
law 3208:13
Lawson 3082:16,21
lawyer 3058:5 3063:14,23 3075:20 3076:14 3077:4 3198:14 3207:6,21
le 2986:3 3026:9 3246:18
lead 3165:25 3242:9
learn 3018:14

3068:15
learned 3148:25 3154:23
leave 3056:11 3073:8,12 3091:19 3097:10
leaves 3056:10
Lebanon 3023:19
led 3217:13
LeFloch 3085:21
left 3010:23 3026:22 3064:11 3084:1,2,3 3086:18 3107:11 3125:19 3162:7 3243:1
legal 2995:8,10 3070:15 3169:1 3227:15,18
length 3231:13
lengthy 3026:8
Leslie 3219:23
less-than-savory 3224:7
letter 3018:6 3180:14
let's 3036:5 3044:12 3047:21 3053:4 3054:24 3085:6 3087:9 3121:23 3140:15 3171:15 3179:12 3202:15 3217:25 3218:14 3230:22 3236:7,9 3238:16
level 3002:1 3027:25 3029:1 3029:11 3048:9 3048:21 3065:22 3083:16 3114:14 3138:23 3152:17 3167:21 3205:9 3205:15 3218:3 3218:13,13 3220:1,11,18,19 3220:20
levels 3029:5 3048:14 3205:13
lever 3073:22 3246:14
liaison 3052:22 3112:25 3162:13
lies 3122:12
likelihood 3201:17
limit 3049:21 3184:17
Lindsay 2998:19
line 3012:14 3013:17 3014:9 3036:8 3064:7 3094:10 3104:8 3157:2 3174:21 3186:3 3200:24 3201:18,23,25 3210:15,22 3234:12
lines 3060:19 3190:16
link 3060:10
Lisiane 3026:9 3027:10 3085:20
list 3040:13,23,24 3041:1,9 3113:10 3208:10
listed 2989:22
little 2995:9 3002:11 3037:7 3044:13 3045:7 3072:5 3108:7 3176:20 3209:13 3222:8 3227:12 3242:2
Livermore 3006:23
local 3005:10 3034:9 3063:4 3110:12 3124:23 3213:13,16
locally 3125:11 3126:10
locate 3008:19 3030:12 3036:24 3037:3,12 3038:12,23 3039:1 3040:9,14 3080:16,17 3094:23 3097:4 3198:25
located 3024:20 3039:12,14,17,20
locating 3037:24 3041:21 3079:25
location 3041:5
logging 3011:2
logo 3050:17
long 2996:11 3025:8 3103:10 3192:4 3196:2 3202:24
longer 3016:9 3097:1,23 3099:1 3100:5 3116:7
look 3008:18 3013:5 3020:3 3070:14 3091:1 3118:21 3128:25 3167:11 3169:22 3179:13,15 3196:23 3210:7 3228:6 3234:11 3236:7,7 3242:16
looked 3137:7 3176:16 3212:17 3241:22
looking 3002:12 3008:7 3012:11 3047:2 3054:21 3090:2 3222:4
looped 3005:18 3014:12
lose 3232:15
lost 2996:14 3006:16 3079:2 3080:16 3145:6 3148:18 3152:10 3152:18,24 3232:16
lot 3074:14 3083:13 3108:6 3143:24 3165:25 3173:1 3177:11 3177:15 3187:16 3193:14 3199:17
lots 3212:20
loved 3018:14
lower 3048:21
lunch 3097:15 3146:24 3157:24 3158:16
lunchtime 3090:2
Lupul 3129:17
Lynda 3246:24
L'audience 2986:3 3246:17

M

macro 3044:3
Madame 3100:19 3214:19
Maher 3013:21 3053:18 3113:8 3113:20 3236:22 3237:12 3239:1,4 3239:14,16 3240:1
mai 2986:4 3246:18
Mail 3110:1
main 3030:11 3095:9 3188:12
majority 3004:22 3005:8,21
making 3035:15 3060:9 3065:5 3086:13 3087:10 3093:1 3171:14
manage 2990:2
management 2987:23 2988:14 2989:16,25 2990:16 2992:17 2994:8 2997:2,8 2997:12 3000:6 3014:18 3132:8 3138:25 3204:4
manager 3129:21 3129:22
mandate 3184:2
mandates 2996:12
mandatory 3031:25 3032:2 3226:19
Manhattan 3079:16,18 3080:23
Manual 2995:7
mardi 3246:18
margin 3012:1
marked 3191:17
Marlene 3025:10 3025:15 3063:3
Marshalls 3079:8
Mary 3219:23
material 3175:1 3195:24
matter 3111:3 3123:2 3152:8 3182:16 3187:25 3209:13 3226:25 3241:15 3244:6
matters 2990:7 3123:19 3131:11 3225:14 3242:23
Maureen 2986:12 3002:3 3028:24 3029:8 3033:19 3034:15,19 3041:14 3042:24 3043:1 3044:21 3045:19 3063:21 3068:17 3069:15 3069:23 3091:23 3092:3 3096:22 3101:16 3118:4,5 3119:15,22 3121:12,13 3150:17 3207:9 3214:11
Mazigh 3071:3 3075:20 3239:5,6 3239:10
Mazigh's 3054:3
ma'am 3208:19
MCI 2995:7
MDC 3017:1,8,8,10 3031:19 3039:22 3040:11,12,22 3041:9 3043:4,20 3046:17 3047:2,3 3047:16 3048:21 3048:25,25 3058:1 3063:9,13 3063:14 3067:12 3078:22 3080:13 3153:5 3159:10 3159:14 3160:1

3167:17,24,25 3171:7 3172:2,3 3172:10 3179:23 3189:14 3197:17 3198:12 3205:7,9 3205:15 3224:14 3237:13
meal 3201:3
mean 3007:22 3016:16 3025:8 3025:20 3029:7 3053:24 3054:13 3055:12 3059:1 3105:6 3141:1 3142:1 3143:20 3152:8 3153:20 3154:19 3166:1 3173:13 3177:1 3189:15 3194:5 3208:21 3217:16 3220:7 3229:11 3229:15,16 3230:17 3237:18 3245:2
meaning 3036:19 3067:14 3235:15
means 3020:8 3036:17 3048:1 3072:14,15 3105:3 3128:6
meant 3234:4,6
media 3060:22 3061:10 3107:19
medical 2996:13 3127:6
meet 3072:11,20 3075:10,15 3174:23
meeting 3071:19 3071:21,24 3072:1,2,7,15 3076:8 3078:18 3088:5,13,25 3092:2 3108:8,13 3108:17,20 3109:1,5,16 3111:10,17 3112:1,5,5,17,20 3136:9,19 3147:4 3174:25 3218:8
meetings 3011:6
member 3018:15 3065:15 3154:18 3154:24 3159:5 3206:20 3217:10
members 3182:22
memo 3109:13,14
memorandum 3110:25 3112:21 3112:24,25 3113:2
mention 3060:3 3092:21 3113:3
mentioned 3048:9 3069:24 3187:9
mentioning 3132:23
message 3010:23 3010:23 3013:18 3014:1,4 3015:1 3016:24 3017:5 3018:5 3020:8,13 3020:15 3021:5 3025:16 3026:9 3026:14,16,17 3027:1 3028:6,16 3028:20,23 3029:23 3032:14 3033:8,15,18 3034:17,18 3041:13,15 3042:22 3043:11 3043:18 3044:20 3053:7,9 3056:11 3056:11 3058:17 3058:18 3062:24 3064:10,21 3066:17 3067:24 3073:3,8,8,12 3075:3 3076:19 3078:7 3079:21 3081:19,24 3086:20 3087:10 3089:7,7 3091:19 3096:20 3097:2 3104:4,7 3105:23 3116:17,18 3117:25 3118:3 3118:15 3121:23 3121:25 3131:6 3135:20 3146:2 3169:20 3171:11 3173:25 3174:6 3174:13 3232:20 3239:18
messages 3011:15 3012:5 3020:9,10 3020:21 3054:22 3054:22 3104:5 3115:16 3239:16
Messrs 3201:13
met 3029:24 3090:4 3098:18 3100:7 3175:3,5
methods 3224:7
metres 3138:22
Metropolitan 3017:14 3168:1
microphone 3123:22,22 3148:6 3161:13 3161:13 3162:17 3162:17 3168:19 3168:19 3241:6,6
middle 3012:17 3079:8 3102:7 3187:17
midnight 3084:7
mid-November 3039:6,7 3199:3
military 3022:2 3023:4,14 3024:8 3181:20 3186:24 3187:18,23 3188:4,16 3189:7
MINA 3109:17
mind 3041:18 3078:25 3184:2 3211:6 3212:12 3233:7 3234:2
minds 3095:8 3235:16,17
Minister 2994:17 2994:17 2995:20 3061:7 3062:4 3109:17,18 3220:15 3221:5,6 3221:11
Ministers 2994:18
Minister's 3052:24 3126:23
ministries 3218:9
Ministry 3105:25
minute 3054:14 3143:2 3146:20 3193:18
minutes 3027:19 3042:23 3047:22 3065:4 3073:19 3171:17 3209:6 3238:3,6
misinformed 3040:19 3041:3
misleading 3111:18 3202:1
missed 3045:7 3170:2 3212:8
missing 3013:22 3039:8 3087:13
mission 2995:2 3002:18,19 3003:12,12 3006:12 3014:17 3037:8 3038:19 3038:23 3106:7 3131:17 3150:6,7 3231:19
missions 2994:11 3001:3 3004:6 3005:10
mistaken 3114:20 3190:20
mistakenly 3074:11
misunderstood 3193:21 3219:15
Mm-hmm 3015:6 3017:2 3055:18 3056:9 3065:9 3068:5 3079:3 3110:15 3141:6 3148:23 3159:7 3166:11 3168:10 3172:20 3177:8 3178:1 3179:16 3196:9 3206:21 3225:22 3238:4 3240:12
moment 3076:1 3140:13,15 3186:3 3217:8
Monday 3074:5,24 3076:24 3078:5 3202:23,24
Monia 3075:19 3239:5,6,10
month 3016:22 3141:21,22,24,25 3203:18
months 3201:8
Montreal 3178:3,6
morning 2986:7,8 2986:11 3020:17 3020:19 3026:19 3030:24 3031:10 3033:25 3034:18 3044:12 3045:1 3053:13,17 3063:9 3073:17 3078:23 3084:3 3086:19 3104:4,9 3136:19 3172:8 3173:24 3179:20 3179:23 3184:25 3190:6 3209:14 3209:22 3234:13 3236:23
mother 3054:3 3191:17 3239:5
mother-in-law 3053:19,23 3054:2,9 3056:18 3057:4,5 3146:3 3146:12 3190:9 3190:17,18,22 3192:4,16,23,25 3193:10,16,23 3194:4 3239:2,5 3239:15,17 3240:10
move 3044:20 3053:4 3054:24 3063:7 3099:16 3117:11 3172:12
moved 3095:6,10

moving 3143:2
MP 3025:10 3063:4
MPs 2994:18 3003:10
multilateral 3032:1 3226:18,21,24 3227:5,9
Myra 2997:10 3012:20 3115:14 3115:15 3116:20 3118:15,19 3129:17
Myra's 3115:19

N

name 2986:22 2997:3,7,11 3003:9 3014:9 3057:12 3075:20 3088:22 3108:11 3112:22 3193:16
Nancy 2986:10,20 2986:23 2987:9 3010:8 3044:24 3068:8,9 3087:17 3088:19,25
Nancy's 3122:6
national 2991:17 3025:22 3067:15 3105:15 3109:2 3243:23
nationality 3019:13 3022:6 3206:17
nationals 3016:1 3019:20
nations 3226:24
Naturalization 3205:20 3207:1 3207:20,24 3209:5
naturalized 2993:14
nature 3054:12 3139:15 3140:24 3141:12 3143:13 3143:13 3144:3,8 3156:20 3158:8 3183:24 3244:21
necessarily 2994:1 3003:19 3016:15 3033:2 3140:5 3169:4 3173:3 3206:2 3232:13 3245:20
necessary 3034:8 3045:17 3185:25 3186:7 3203:1 3214:9
necessity 3058:18
need 3007:1 3023:11 3029:5 3122:20 3123:17 3124:1 3141:9 3142:16 3144:16 3144:20 3155:6 3193:2 3234:10
needed 3007:12 3008:10 3070:15 3193:3
needs 2995:2,18,22 3029:10
negative 3037:5 3038:2
neither 3211:11 3224:22
never 3032:5 3077:6,10 3079:9 3094:2 3109:11 3154:4,13 3155:15 3165:4 3167:7 3196:10 3204:25 3223:16 3228:18
new 2991:23 3013:24,25 3014:5,19 3016:25 3018:6 3026:10 3027:6 3030:16 3037:9 3040:9 3045:21 3059:2 3062:7 3075:18 3079:24 3080:2 3081:11 3084:19 3085:16 3093:17,17 3107:17 3132:16 3146:10 3151:9 3163:5 3198:11 3239:19 3240:20 3242:23
night 3034:5 3079:9 3151:3
noon 3021:8
norm 2990:14
normal 3019:19 3029:4 3063:16 3072:9 3077:14 3105:8,10 3134:11 3145:24 3147:19 3150:22 3150:23 3153:20 3165:8 3217:1 3231:8
normally 2993:25 3001:22 3003:15 3005:21 3019:2 3020:12 3022:5 3023:16 3036:19 3037:20 3038:17 3038:20 3048:10 3050:10 3051:6 3076:10 3082:25 3087:2 3107:18 3126:5 3131:5 3139:14 3140:2 3141:1 3148:20 3164:23 3176:1,2 3206:1 3207:2 3216:1,24 3217:3 3218:2 3220:21
notation 3176:21 3192:15
note 3001:18,20,25 3002:6 3010:17 3014:17 3015:4 3018:1 3020:10 3030:4,10 3031:18 3033:7 3033:23 3034:4 3035:3,13 3038:18 3043:3,9 3044:10,15 3046:9,10,24 3047:6,20 3048:8 3048:11,12,18,19 3048:22 3050:11 3052:2 3058:19 3059:5,12,20 3068:23 3070:2 3073:12 3081:6 3081:21 3089:25 3104:23 3105:4 3105:18,24 3106:7,15,16,23 3107:4 3109:10 3115:13 3121:15 3137:3 3153:2,7 3166:13 3167:15 3167:18 3170:21 3170:25 3171:2,6 3171:12,15,16,21 3172:5 3189:11 3190:1 3191:1 3194:8 3196:24 3205:19 3206:11 3207:16 3216:12 3216:17 3217:4 3236:15,21,23 3237:5,10,18 3245:6,11,18
notebook 3009:24 3010:10 3011:2,7 3176:16
noted 3188:25 3236:16
notes 3001:22 3002:8,10 3010:2 3010:8,13,18 3019:22 3025:3 3047:23 3052:11 3064:2 3065:3 3071:9 3074:8,23 3078:4 3081:3 3092:5 3103:23 3106:4,9 3107:10 3108:4 3109:2 3116:1,13 3133:24 3134:14 3134:19 3135:5,5 3135:10,11 3136:9,15 3137:5 3137:9 3146:19 3172:24 3173:11 3175:1,19,25 3176:5,11 3177:1 3177:3,7 3179:13 3180:15,21 3181:3 3187:9 3189:5 3190:14 3191:10,12 3192:20 3194:16 3194:18 3228:1 3237:22 3238:3 3242:16
note-taking 3018:19
notice 3132:22 3188:25 3242:25 3245:7
noticed 3028:24 3189:4
notification 3031:22 3032:2 3047:1,8 3068:4 3069:22 3225:17 3226:19 3228:14
notified 3031:5 3163:4
notify 3227:21
noting 3017:25 3176:19
November 2988:4 2989:4 3116:14 3116:24 3121:4 3122:1 3198:13 3198:18 3203:18 3203:24,24 3204:9,15
NSEERS 2991:18 3025:18,19,21
nuancing 3043:17
null 3070:2
number 2993:8 3003:10 3005:3 3013:7 3070:23 3073:13 3088:21 3143:21 3218:19
numbers 3005:6 3102:5
numerous 3046:21 3209:4

O

object 3245:1
obligated 3227:2

observer 3077:19
obtain 3021:14 3027:17 3031:1 3053:20 3100:11 3208:11
obtained 3100:10 3216:6
obtaining 3098:14 3098:21
obvious 3088:7
obviously 3005:23 3010:21 3068:18 3074:14 3172:21
occasion 3007:2 3011:9 3106:10
occasional 3176:21
occasions 3011:10 3046:21 3166:15 3200:21
occupied 2988:4 2989:3 3012:19
occupying 2988:13
occur 3012:23 3222:23
occurred 3009:5 3026:11 3029:16 3064:18 3080:6 3215:2
occurrence 3063:5 3079:13
occurring 3025:6
Oct 3033:23
October 3012:25 3015:5 3016:19 3016:22 3017:20 3020:7 3026:8 3028:17 3033:4 3041:14 3044:18 3052:12,16 3057:22 3062:16 3062:22 3063:8 3064:3 3068:24 3069:4,5 3070:18 3074:5,8,24 3078:5,20 3079:20 3082:2 3086:18 3096:20 3099:18 3101:5 3102:16 3103:21 3107:10 3108:4 3109:16 3110:24 3111:10,22 3112:24 3115:12 3116:2,2,5,11 3121:16 3132:16 3144:23 3148:10 3169:17 3179:19 3191:24 3192:1 3198:12 3203:22 3204:1 3206:14 3210:21 3211:15 3211:17,25 3212:16 3214:13 3217:9,23 3218:16 3222:10 3222:11,11 3223:14 3225:25 3226:5 3234:13 3236:12
odd 3079:5
offence 2991:9
offender 2993:18
offenders 2993:19 3008:20 3083:8,9
offer 3077:9
offered 3120:11
office 2986:14 2987:24 2996:21 2996:25 3003:5 3005:4,17 3006:21,21 3007:4,22 3008:2 3009:15 3011:13 3013:20,25 3015:12 3016:14 3025:10,15 3026:25 3027:6,7 3027:16 3037:9 3040:8,14 3045:22 3052:24 3062:7 3063:3 3072:21 3074:16 3079:24 3081:11 3085:17 3086:4 3088:21 3110:2 3116:10 3132:21 3136:18 3138:22 3140:13 3141:8 3141:15 3142:3 3142:10 3147:16 3204:3 3238:20
officer 2987:2,23 2988:13,14 2989:16,25 2990:16 2992:18 2994:8 2997:8,12 2998:9,12 3001:6 3001:11 3012:12 3014:18 3018:14 3027:12,13,18,20 3032:14,24 3107:16,17 3111:21 3113:1 3116:8 3124:23 3125:4 3126:6,10 3126:11 3127:4 3129:13 3162:14 3164:2 3168:7,21 3204:4 3213:19 3231:18 3232:4 3232:18 3239:11
officers 2996:5,5 3000:2,3,5,6,10 3000:19 3007:3 3007:24 3008:1 3018:18 3066:20 3125:10
Officer's 2996:1
offices 2999:14 3137:25 3138:19 3138:25,25
official 3058:1 3059:8 3068:4 3080:19 3087:22 3088:8 3090:9 3091:6,9,20 3093:11,25 3094:3 3096:24 3097:21,22 3098:18,25 3099:4 3100:8 3105:13 3154:1 3155:16 3167:19 3205:1,12 3208:5 3234:17,19,21 3235:9 3244:25 3245:12
officially 3012:14 3031:5 3103:4
officials 2995:16,19 3003:25 3090:1 3098:15 3168:23 3210:18 3228:16 3230:4,11 3231:3 3231:3 3233:17 3243:22
Oh 3203:25 3209:25 3212:9 3218:17 3235:23
okay 2989:2,11 2997:6 2999:12 3000:4,23 3001:1 3001:5 3002:24 3006:18 3007:19 3008:22 3009:9 3009:20 3012:2 3013:3 3016:10 3017:18 3021:1 3021:10,13 3023:1 3024:16 3026:23 3028:14 3029:14 3039:7 3040:4 3041:2,24 3042:8 3047:21 3050:13 3052:10 3054:24 3055:8 3060:2,24 3061:25 3062:12 3063:1 3066:16 3070:17 3071:7 3071:13 3072:4 3073:9,14 3075:7 3076:4 3077:16 3078:19 3081:2 3084:1 3086:7,16 3087:24 3088:10 3090:14 3091:7 3094:7 3095:21 3097:13 3099:2,4 3099:15 3102:11 3102:14 3104:16 3108:12,19 3109:6 3119:21 3122:16 3130:3 3132:4,7 3133:8 3136:12 3137:16 3137:18,24 3140:1 3141:20 3142:25 3144:9 3144:15 3145:2 3146:21 3149:14 3151:7 3152:19 3153:4,5 3154:21 3155:2,9,14 3156:8,12 3157:23 3160:12 3161:4,22 3162:6 3162:19,25 3165:6 3166:8 3168:20 3169:9 3169:25 3170:3 3172:9,11 3173:5 3176:14 3179:6 3181:2,16 3182:17 3185:3 3186:21 3189:25 3193:5 3196:5 3198:4,15 3203:9 3203:10 3204:23 3207:14 3216:9 3219:3 3220:8,9 3223:7 3226:6 3227:10 3229:18 3230:18 3236:8 3238:1,12,16,24 3241:5 3246:4,11
once 3048:21 3141:16 3174:13 3232:2,17
ones 3131:20 3184:14
one-minute 3192:12,15
one-page 3201:1
one-week 2996:11
ongoing 3097:12 3149:11
online 3209:4
Ontario 2986:1,1
open 3014:16 3049:4 3139:23 3201:23
opened 3014:20 3173:24 3242:12
openly 3134:7

open-door 3134:6
operates 3220:17
operating 3095:13
operation 3003:8
operations 2988:15 3014:16 3023:8 3187:15
opinion 3055:17 3229:21
opportunity 3088:2 3140:20 3202:2 3242:11 3243:2
opposed 3140:22 3141:3 3187:1
options 3049:4
order 2991:6 3008:12 3021:19 3026:4 3030:13 3031:1 3043:21 3089:3 3098:9 3126:6 3127:12 3231:16 3235:2
ordinary 3006:14 3011:25 3145:5
organization 2988:19 2996:20 2997:2 3050:8 3065:16,19 3086:13 3244:22
organizations 2993:22
organized 3122:21
organizer 3082:9
original 3198:24
other's 3091:15
Ottawa 2986:1,1 2986:13,14 2987:3 2988:16 2998:9 3000:6 3003:24 3005:2,4 3014:8 3045:21 3051:5,7 3053:19 3059:2 3082:13 3084:2,6 3085:22 3086:4,5 3099:19 3100:23 3117:2 3132:13,18,20 3169:18 3218:5 3239:2
ought 3228:8
Oummih 3075:20 3076:19,22
outreach 3032:10
outside 3160:8
outstanding 3232:22
overall 3184:3
overseas 2987:19
overstayed 2991:12 3231:13
overview 2996:15
o'clock 3069:9 3073:16 3078:23 3090:5 3246:7

P

page 2996:24 2997:1,4 3020:7 3025:2 3033:10 3033:10 3052:12 3052:15 3053:15 3056:5,13 3061:21 3062:1 3064:5,9 3069:1,2 3071:10 3072:23 3073:5 3074:9,19 3074:23 3078:4,4 3078:9 3081:3,4 3102:3,7,9,12 3103:25 3107:10 3107:12 3108:5 3109:22 3110:19 3111:16,20,23 3114:13 3116:1 3116:14 3117:13 3117:13,14 3118:1 3180:25 3191:20 3211:9 3237:23
pages 3020:3 3052:14 3064:3 3102:5 3104:1
panic 3018:3 3179:21
paper 3159:4
paragraph 3027:4 3027:5 3030:15 3058:3,6 3060:3 3065:13 3068:7 3075:24 3087:16 3101:3 3155:10 3210:13 3240:4
paragraphs 3118:23
pardon 3123:21 3194:25 3234:20
Pardy 2998:1,6 3007:10,12,13,18 3009:12 3029:15 3029:19 3050:22 3051:3 3055:3,10 3055:11,12,15 3068:9 3069:11 3070:14,15 3071:22 3072:1 3072:17 3075:15 3085:25 3086:24 3088:6 3089:4 3090:4,19 3092:1 3092:2 3093:21 3094:8 3097:10 3100:9,10,14,17 3101:12 3103:15 3106:5 3108:17 3108:22 3109:18 3109:19 3112:7 3112:14 3113:16 3115:7 3116:20 3118:5 3119:17 3120:5 3130:24 3131:13 3132:11 3133:21 3134:2,5 3134:7 3135:14 3135:20 3136:10 3136:14,17 3137:8,17 3138:14,16 3139:10,15,17,22 3139:24,25 3140:3,11,22 3141:3 3142:20 3143:4,22 3144:4 3144:12 3147:4,6 3147:11 3149:7 3150:18,21 3153:22 3156:2 3169:13,18,22 3170:6,12 3202:22 3210:17 3217:24 3218:4 3218:19 3219:4,7 3220:3,13,18,23 3222:3 3223:1,4 3226:1 3245:10 3245:10
Pardy's 3050:20 3072:20 3138:22 3140:19 3141:8 3141:15
parliamentary 2995:21 3052:18
part 3009:21 3012:3 3020:20 3032:24 3061:2 3062:9 3072:11 3084:19 3086:12 3098:6 3111:9 3165:19,21 3185:19 3217:21
participate 3150:15
participation 3119:24
particular 2987:25 3018:9 3078:15 3085:1 3090:8 3172:22 3201:14 3237:9
party 3050:8
pass 3050:11 3245:9
passed 3100:12 3116:20
passport 3015:14 3016:5,9 3022:4,6 3022:8 3083:7 3086:6 3181:15 3189:18,19 3196:12 3232:10
passports 2996:13 3015:21,25 3016:4 3127:1,5,7
Pastyr-Lupul 2997:11 3012:20 3115:14 3116:21
pause 3028:13 3122:24 3123:24 3129:2 3148:8,12 3152:20 3155:12 3162:22 3167:13 3170:17 3179:17 3185:6 3227:24 3228:3 3233:13 3235:25
pauses 3097:15
penalties 2990:5 2991:1
penalty 2991:4,7 3077:25 3144:2
pendant 2986:14
pending 2990:24
people 2990:19,23 2991:10,19,24 2998:23 2999:16 2999:19,21,23,24 3011:16,19 3015:25 3018:12 3023:9 3026:2 3085:2 3094:10 3096:3 3110:13 3127:1 3137:25 3158:25 3159:13 3159:22,23 3160:4 3178:25 3184:21 3187:16 3187:17 3200:21 3201:5 3205:21 3213:12 3225:11 3232:14
people's 3212:18
percentage 3004:18,22 3141:2 3142:15 3143:3,9,11 3148:21
percentages 3088:12
perfect 3076:4
perfectly 3003:21 3019:5
performance 2994:13
period 2988:8 2998:10 3055:12 3093:8 3126:20

3126:24,25 3160:20 3163:9 3171:25 3222:10
permanent 3127:25 3128:9 3128:11,14 3176:4
permitted 3059:18
perplexed 3094:20
person 2993:9,25 2995:1 3001:6 3002:5 3008:8 3010:12 3011:17 3011:18,23 3018:20 3019:5 3022:5 3029:1 3037:20 3044:11 3050:16 3055:24 3060:1 3077:24 3107:18 3138:9 3138:12 3168:14 3168:16 3176:22 3183:18 3200:7 3208:12 3213:10 3231:11,15,24 3232:23 3233:1 3235:9 3238:19
personal 3010:2,7 3019:22 3052:11 3064:2 3071:9 3074:7,23 3078:4 3081:3 3103:23 3108:4 3116:1,13 3202:12
personally 3009:7 3237:15
personnel 3080:2,2 3085:13
persons 3169:13
person's 3235:8
pertaining 3115:16
pertinent 3177:21
phone 3011:2 3017:22 3019:25 3020:8 3021:11 3029:8 3039:2 3056:7 3057:22 3064:25 3069:19 3070:23 3072:14 3073:13 3075:18 3081:22 3088:20 3092:7 3093:11 3135:18 3141:5 3177:16 3190:2 3190:11,13 3191:1 3192:12 3192:15 3193:17 3195:9 3204:6 3212:15 3219:4 3233:25 3235:2 3238:2,6,23 3239:3,9,14 3240:23
phoned 3190:8,8,9 3190:15
physically 3175:2
pick 3020:9 3029:8 3162:7
picture 3135:16
Pilgrim 3112:3,12 3112:22
place 2997:24 3068:21 3069:11 3070:12 3082:2,5 3088:19 3097:11 3147:10 3154:22 3157:19 3176:19 3176:20 3185:11 3230:25 3234:12 3241:17
placed 3019:7 3037:25 3089:24 3098:19 3157:22 3198:16 3218:4
placing 3094:21
planet 3000:12
play 2998:12 3000:15 3001:11
playing 3056:7
please 2986:5 3021:6 3035:19 3073:21 3074:2 3111:18 3116:4 3123:23 3155:7 3161:24 3162:4 3201:20
podium 3122:20
point 2987:5 3000:18 3002:12 3008:11 3010:2 3010:16 3012:10 3013:16 3014:13 3014:22 3017:8 3017:17 3020:12 3021:8 3030:11 3031:8 3038:9 3039:23 3042:14 3042:17 3059:13 3067:17,19 3069:17 3072:7 3080:6 3081:18 3085:8 3093:1 3094:7 3119:16 3123:14 3134:23 3135:2 3137:10 3137:18 3144:10 3151:11 3153:15 3157:3,25 3175:18 3186:11 3188:7 3199:21 3199:25 3201:20 3202:16 3209:18 3215:15 3223:9 3226:12 3246:2
points 3025:13 3124:13
police 3032:8 3037:22
policies 2994:14 3083:1
policy 3001:2,2 3134:6
political 3118:9
pose 3228:4
posed 3113:6 3243:13
posit 3228:7,11
position 2988:3,10 2988:13 2989:3 2992:10,17 2996:5 3031:14 3043:17 3082:22 3129:22 3146:15 3243:22,25
possession 3200:10
possibility 3041:10 3058:5,22 3106:21 3114:9 3122:7 3200:4 3219:3 3222:12
possible 3057:7 3088:5 3095:3 3122:4 3186:22 3193:20 3216:12 3216:15 3222:21 3244:9
possibly 3057:13 3077:25 3115:1 3161:2
post 3082:22
posted 2989:7 3125:7
posts 3083:1
post-9/11 2991:23 3015:23
potential 3016:13 3106:23 3229:13
potentially 3060:22
pour 3246:18
practice 3079:5 3117:8 3174:7 3224:2 3231:6
precedent 3067:18 3189:22
precise 3070:5
precisely 3170:6 3194:23 3195:2
precision 3070:5
prediction 3059:8
prefer 3140:21
prejudiced 3186:10
prepared 3062:10 3102:2 3113:4 3122:13,14 3201:14
preparing 3241:11
presence 3104:25 3114:15
present 2991:5 3035:16 3077:4,5 3094:11 3095:5 3095:16 3096:15
presently 2987:22
press 3060:19 3110:2,17,17 3174:21
presumably 3135:9 3240:14
presume 3080:18 3092:4 3100:16 3105:12,21 3129:6 3133:6,11 3133:13 3165:12 3165:17 3177:2 3178:13,18 3191:15 3218:6 3221:13,25 3237:2 3239:7
presumed 3060:8
Presuming 3178:16
presumption 3153:16,16
pretty 3067:10 3173:4,25 3174:12 3188:24 3243:19
previous 2988:12 2989:6 3024:1 3043:10 3066:7 3079:17 3108:15
previously 3077:13 3094:3 3151:3
Prime 2994:17 3126:23
principal 3082:9
principle 3023:22
prior 3136:13 3147:9 3162:9 3163:4,20 3180:9 3182:22 3183:2 3191:9,12 3231:3
prison 3002:18 3064:17 3079:14 3169:6 3188:17
prisoners 3079:6
Prisons 3038:1 3079:7
privacy 3118:8 3227:7
privy 3230:5,12
probably 2990:14 2999:7 3124:1 3175:12 3210:7 3215:13 3223:3
problem 3035:6

3083:5 3182:1 3183:9 3185:16 3241:25
problems 3003:1 3083:2,6
procedure 3014:12 3041:4 3061:12 3077:8,14 3091:3 3105:8 3134:11 3231:17
procedures 3014:15 3029:4 3105:11 3134:9 3139:19
proceed 2995:4 3034:2 3042:21 3043:2,22 3156:17 3163:23 3164:23 3171:5 3171:20 3185:1 3201:18 3202:5 3217:4
proceeded 3059:19 3089:22 3092:3 3100:8,10 3105:17
proceeding 3044:9 3202:7,12
proceedings 3077:17,17 3241:15 3246:5
process 3061:12,14 3081:17 3099:9 3126:5 3127:14 3150:20 3151:4 3179:1 3205:23 3206:18 3210:12 3228:15 3231:9 3231:15 3233:11 3242:19 3243:9
processes 3231:22
produce 3009:25
profile 3142:19 3145:8 3148:17 3152:10,16
profiles 3143:15
program 2996:4 3000:3 3032:10 3127:4 3130:2
programs 2996:1 2998:4
promise 3223:6
promised 3027:21 3092:7 3093:12
promptly 3011:21
properly 3110:10 3235:14
proposition 3186:22
pros 3002:7
protect 3098:9
protected 3243:23
protecting 3098:7
protest 3002:22 3106:10
protocol 3131:17
provide 2994:10,21 3001:1 3002:19 3007:16 3021:19 3021:20 3023:21 3035:19 3043:6 3070:22 3071:3 3097:22 3102:23 3110:22,25 3111:6 3112:12 3163:13 3180:10 3206:1 3230:7
provided 3022:23 3051:10 3088:20 3098:8,9 3101:2 3163:3 3164:19 3165:4 3168:7 3205:25 3208:9 3208:10 3228:10 3230:15 3235:20 3240:1
provides 2989:17 2999:8
providing 2999:25 3038:5 3088:15 3100:23 3103:19 3164:23 3245:3
province 3019:15
PRPA 3107:15
public 3006:22 3027:6 3045:3 3098:12 3107:16 3109:4 3111:17 3208:11
publish 3026:4
purpose 2996:9 3041:3 3046:6 3061:5 3072:7 3201:15
pursue 3184:5 3185:14 3186:6
put 3050:16 3069:9 3087:19 3088:13 3097:3 3101:22 3117:16,24 3135:10 3148:14 3175:24 3176:8 3181:23 3182:7 3182:14 3183:14 3184:6 3186:2,21 3189:5,10 3190:7 3190:14 3194:13 3195:16 3196:4 3199:16
putting 3006:6 3117:5 3151:1 3186:11,13
puzzled 3094:15,20
puzzling 3193:19
P-19 3111:13
P-42 3013:4
P-49 3128:19
P-51 2996:23
P-52 3035:23 3036:2
P-53 3035:23 3036:3 3051:11
P-57 3044:18
P-81 2987:6,8 3124:14
P-82 3010:7 3019:23
p.m 3076:25 3089:1 3161:25 3162:2 3246:15

Q

Qaeda 3065:20
Qa'ida 3065:20
Quarter 3158:14
question 3023:6 3040:17 3044:17 3054:3 3060:6 3061:21 3077:7 3102:25 3104:19 3107:21 3108:14 3111:4 3114:19 3122:11 3151:20 3182:14 3184:6 3194:6 3195:19 3211:11,22,24 3217:6,17,22 3223:4 3228:5,25 3229:5 3230:23 3241:20
questioning 3186:4 3200:24 3201:19 3201:23,25 3210:23
questions 3022:11 3023:9,12 3052:23 3061:9 3065:10 3083:12 3096:2,5 3099:5 3112:14 3113:6 3113:11,13,14,15 3113:16 3115:7 3122:17 3163:13 3163:15 3165:25 3166:1 3181:14 3183:24 3193:3 3194:3 3202:9,19 3236:2 3243:13
quickly 3038:21 3062:20 3064:24 3070:21 3105:3 3145:23
quite 2989:17 2992:5 3002:10 3018:2 3049:15 3088:7 3096:21 3152:22 3173:2
quoted 3110:6,8
Q&A 3060:18 3061:1,13,16 3100:24 3101:3 3107:20 3174:22
Q&As 3052:23 3061:2,6

R

raise 3002:2,2 3065:22 3123:1 3187:2 3241:14 3241:23
raised 3046:25 3084:16,18 3085:4 3122:7 3186:25 3187:17 3187:20 3189:7 3218:3 3223:16 3225:16 3240:21 3240:22 3242:23 3243:15,16,17
raising 3054:16,18 3118:5 3242:23
ran 3182:2
rare 3049:10
RCMP 3008:24 3110:21 3111:6 3111:21 3112:2,4 3113:1,12 3162:9 3162:13 3163:2 3163:18 3164:2,9 3164:19,22 3165:21 3229:20 3232:25 3233:5 3233:17
RCMP/Interpol 3232:21
reach 3090:2 3170:5,8
reached 3029:6
reaching 3092:10
react 3028:20 3065:21 3067:7 3080:10 3155:22
reaction 3032:25 3057:10 3067:9 3205:13 3235:6,7
read 3002:21 3028:10,15 3030:14 3033:11 3033:23 3039:3 3071:12 3076:1,3 3109:23 3111:23 3113:13 3121:23 3171:9 3180:12 3192:6
reading 3058:17

3183:5
reads 3058:6 3074:16
readying 3122:10
realities 2990:10 3084:20
realized 3058:12 3152:4
really 3010:24 3016:11 3049:15 3053:25 3083:4 3093:21 3095:9 3133:18 3142:9 3152:9 3167:8 3176:3,11 3177:9 3179:2 3207:11 3218:17 3221:15 3221:15
real-life 2990:10
reason 3067:16 3079:9 3105:9 3106:2 3139:13 3169:15 3181:21 3187:13 3216:2 3227:18
reasonable 3002:23
reasons 3079:10 3110:14 3196:6 3239:25 3240:5
recall 3021:11,12 3035:5 3036:9,10 3038:10,16 3042:3 3046:2 3051:13 3052:1,5 3057:17 3058:25 3069:18 3072:2 3073:10 3078:17 3081:13 3083:21 3084:2,9,25 3089:9,12,17 3090:11,12,13 3092:1 3106:19 3113:15,25 3115:6 3132:21 3133:1 3135:23 3136:12,19 3152:6 3156:12 3156:19 3158:7 3167:4 3174:3,11 3174:17,24 3175:3,5,11 3178:8,11,17 3179:9 3181:5,6,7 3181:8 3187:3,21 3188:3,6,8,13,18 3203:7,8 3206:7 3214:12,14 3216:5,8,9 3238:5
recalled 3186:8 3195:25
recalling 3172:15
receipt 3182:22
receive 3012:7 3053:6 3087:2 3107:19 3231:18
received 3003:9 3010:20,22 3025:16 3026:25 3039:2 3045:2 3046:11 3057:1 3069:19 3105:13 3180:5 3198:2 3217:12 3226:3 3229:11,20 3245:9
receives 3231:16
receiving 3015:1
reception 3095:19 3096:16
recessing 3073:23 3161:25
reciprocal 3227:7
reciprocate 3227:19
recollect 3012:24 3116:6 3133:2,3,4 3133:10 3136:21 3145:11 3157:13 3157:15,21 3179:4,5 3190:16 3190:17 3192:18 3192:19,21 3209:20 3235:14 3237:3,14
recollection 3068:21 3112:17 3116:16 3122:12 3134:18,22 3157:12 3158:3 3181:24 3194:15 3194:20 3204:20 3214:23 3223:17 3237:1,4,8,16 3238:7
recollections 3134:14 3194:18
recommend 2994:14
recommendation 3087:16
recommended 2995:15 3015:23 3015:24
reconsider 3059:12
recopy 3074:18
record 3044:17 3098:12 3109:9 3111:17 3116:9 3117:16,24 3120:15,23 3166:22 3172:16 3172:23 3176:4 3215:3
recorded 3200:8 3240:25
records 3040:25 3239:15
recourse 3221:11
redacted 3109:2
reduce 3201:17
refer 2996:19 3008:24 3019:21 3023:16 3025:2 3035:2,23 3052:11,12 3173:11
reference 2994:6 2995:10,23 2996:21 3000:18 3010:14,16,24 3020:12 3027:3 3058:2,4 3060:18 3063:2 3065:12 3067:4 3068:19 3076:18 3090:10 3092:23 3100:25 3101:16 3102:5,7 3103:14,15 3104:17 3108:7 3109:7 3110:17 3111:5 3112:19 3121:22 3135:4 3137:8 3212:15 3214:2,19
references 3109:1 3211:2
referred 2988:19 3004:8 3023:2 3033:8 3034:9 3065:1 3080:3,11 3184:15 3202:18 3211:21
referring 3013:13 3055:5 3066:17 3074:23 3079:1 3079:16 3080:13 3093:4 3111:16 3214:19
refers 2990:1 2992:18 3018:2 3028:6 3065:14 3075:18 3236:22 3238:22
reflect 3018:18 3065:3
reflected 3068:23 3073:11 3156:14
reflects 3104:13
reflexes 3024:13
regard 2987:25 3006:24 3008:25 3024:1 3029:16 3031:15 3035:3 3035:22 3042:12 3049:13 3077:8 3097:25 3098:22 3099:13 3100:4 3105:5 3111:7 3112:20 3116:3 3118:6,8,13,16 3119:22 3121:18 3121:23 3237:22 3239:14
regarding 3114:9 3163:4
regards 3049:6 3065:11 3069:7
REGISTRAR 2986:5 3073:21 3074:2 3161:24 3162:4 3246:13
Registration 2991:18 3025:22
regular 3079:6 3216:24
reinforced 3016:1
reiterate 3204:19 3207:15
reiterated 3166:13
relate 3184:13 3193:22
relating 3114:15
relations 2990:8 3045:3 3107:16
relationship 3006:20
relative 3002:25
relatively 3038:21 3211:3
relays 3245:10
release 3244:25
relevancy 3053:22 3192:25 3193:10
relevant 2988:7 2993:1 2997:15 2998:10 3000:5 3009:17,18 3053:6,8 3054:1 3054:23 3073:3 3104:5 3113:16 3115:7 3143:2 3176:13 3185:13 3194:12
relying 3174:25
remember 3021:21 3025:8 3038:24 3046:9 3055:1,15 3056:25 3059:15 3075:14 3078:18 3085:8,10 3094:25 3097:9 3133:7,12,17,18 3133:23,23,24,25 3134:23,24 3135:1,2 3147:7

3156:25 3157:22 3172:22 3173:2,6 3173:18,22 3175:8 3178:19 3178:21 3181:9 3181:11,13,17,18 3181:19 3195:6 3195:10,14 3235:12,22,23
remind 3153:23
removal 3205:22 3228:15
removed 3078:22 3080:12 3099:23 3100:6 3101:8 3102:21 3103:7 3105:16
rendition 3223:20
rendu 3081:16
renewing 2991:20
repatriation 2996:13
repeat 3204:18 3230:8
repeatedly 3131:21
repeating 3184:19
replaced 2997:18 2997:20
replacement 2997:24
replied 3171:8
reply 3043:4 3049:22 3061:22 3087:1 3091:24 3093:13 3172:4,6 3172:10
report 2998:5 3002:20 3023:17 3026:5 3065:7 3067:21 3111:13 3111:21 3112:23 3182:23 3183:6 3201:8
reported 3130:16
REPORTER 3147:21 3163:24
reports 3023:10 3036:23 3132:10
reprendre 3246:18
represent 3070:10 3208:17,19
representation 3076:8
representative 3078:1
represented 3006:9 3112:4
represents 3004:18
Reprise 3074:1 3162:3
reproduced 3236:14
request 3035:10 3040:13 3048:24 3071:19 3072:17 3112:6 3150:6,17 3232:20
requested 3064:21 3068:1 3105:13 3108:14 3147:12 3147:16 3150:7
requesting 3044:19 3047:10,11,12,13 3047:14 3062:21 3070:22 3115:15
requests 2990:2
require 3001:15
required 2996:16 3005:2 3205:13 3232:11
requires 3003:5
research 3101:4 3213:3
resident 3103:11
resolve 2993:2
resort 3002:3 3048:12 3059:4
resorted 3043:14 3046:5,6 3048:1 3104:23
resorting 3058:19
resource 3001:6 3213:9,11
respect 2993:3 3020:5 3021:15 3131:1,11 3135:14 3140:18 3142:8 3182:15 3182:21,24 3183:1,10 3184:8 3203:13 3205:16 3234:2 3243:25
respond 3034:17 3034:19 3091:9 3185:8 3229:3
response 3034:19 3043:7 3049:17 3092:8 3093:14 3098:20 3110:22 3111:7 3113:5 3120:7 3122:6 3156:23 3187:22
responses 3008:10
responsibilities 2989:16 2998:20 3004:6 3060:25 3063:25 3086:13 3131:14 3137:20
responsibility 2995:20 3004:4 3063:20 3070:9 3129:22 3204:6 3207:3,11 3208:2
responsible 2998:10 3061:19 3063:19 3169:6
rest 3099:13 3186:2
restricted 3134:18
result 3158:8 3197:8 3201:24
resume 3124:13,19 3246:6,16
resuming 3073:25 3162:2
return 2994:2 3011:20,24 3054:22 3073:8 3116:19
returned 3021:3 3082:21 3084:5 3108:18 3136:18
returning 3021:5 3107:22 3176:23
reveal 3243:7 3245:14
reveals 3245:16
reverse 3008:14
review 2987:12 2989:18 3009:21 3064:4 3200:14 3201:4,23
reviewed 3033:8 3112:23
Richard 3113:1
right 2993:25 2994:5 2996:18 3019:18 3044:10 3046:19 3061:20 3073:18 3091:25 3096:17 3102:6 3123:7,18 3124:18 3125:8 3126:2,4 3130:3 3131:6,19 3132:4 3138:3 3142:5,6 3142:11,24 3143:7 3144:14 3144:25 3145:21 3150:9,18,24 3151:19 3154:6,7 3154:19 3156:2 3158:6,23 3159:6 3168:2,5 3170:18 3171:22 3172:4 3172:19 3173:15 3174:8 3175:4,17 3176:14,21 3177:14,18 3178:7 3179:12 3183:22 3185:5 3188:2 3190:11 3196:3,14 3197:4 3197:7,12 3198:8 3198:19 3202:10 3204:2,10 3212:2 3212:3 3213:21 3219:6 3221:10 3225:9,23 3226:20 3229:21 3229:25 3246:8
rights 2993:5 3070:23 3117:19 3119:6 3166:17 3166:22 3227:6
right-hand 3169:24
rigorous 3126:5
ringing 3089:20
Rires 3124:7 3186:20 3233:12
rise 3073:19 3083:17 3161:23 3246:12,13
Robert 3045:6
role 2998:13 3000:14 3001:11
Rome 3129:25 3130:2
rough 3143:19
route 3048:19
routine 3144:10 3175:16
routinely 3243:21
Roy 3113:1 3162:14
rule 3220:17
ruled 3195:20
ruling 3183:10,12
run 3196:2
runaround 3058:16 3059:9 3095:12
rung 3234:1
running 3182:1
run-around 3041:23
R.P.R 3246:25

S

s 3197:8 3204:20 3205:1
Sans 3123:22 3161:13 3162:17 3168:19 3241:6
satisfaction 3220:25
saved 3227:12
saw 3147:6 3173:23 3173:24 3174:4,6 3174:11,13 3217:9
saying 2987:1 3022:10 3042:25 3076:13 3106:3 3110:8 3119:15

3128:9 3134:20 3148:14 3150:4 3152:6,7,15,18 3153:11 3165:21 3167:5 3171:11 3171:12 3178:17 3198:13 3217:9
says 3010:19 3020:18 3029:1 3030:15 3033:21 3044:23 3066:18 3068:7 3074:17 3102:18 3103:3 3105:23,24 3109:24 3110:20 3111:25 3122:1 3179:19 3201:11 3204:1 3210:15 3211:10,18 3214:3 3236:23 3245:11
scenario 3007:21 3007:25 3035:18 3036:3,4 3041:16 3041:16 3042:4 3051:10 3067:5 3077:22 3079:11 3079:12 3084:13 3094:16
scenarios 2992:6 3007:20 3008:5 3008:23 3009:2 3095:3
scene 3137:8
se 3208:7 3233:16
search 3209:3 3213:13
seated 2986:5,25 3074:2 3162:4
second 2997:3 3039:5 3041:14 3062:1 3067:4 3075:23 3087:16 3093:1 3101:3 3113:22 3128:25 3162:16 3170:16 3181:19 3206:10 3210:15 3239:3 3239:24 3240:4
secondly 3118:9
secretary 2995:21 3052:18 3065:17 3221:12
section 3206:16,19 3206:25 3207:19 3214:13
secure 3159:22
security 2991:17 3025:22 3060:4 3079:10 3084:11 3084:14 3109:3 3243:23
see 2987:18 2997:6 3002:22 3007:14 3014:3 3020:17 3024:18 3029:14 3030:12 3036:22 3042:19 3043:4 3055:2,20 3056:14 3057:8 3059:3,22 3061:20 3062:4 3062:24 3063:3 3063:19 3065:2 3070:16 3071:1 3072:17 3080:25 3081:5,24 3083:5 3088:18 3089:5 3091:19 3092:3,6 3093:13 3097:2,3 3101:10,13 3108:12 3113:10 3115:12 3119:22 3120:6 3136:15 3137:8 3139:23 3139:25 3141:17 3141:24 3143:24 3146:19 3156:14 3157:4,25 3171:7 3174:1 3177:9 3179:10 3185:19 3191:21 3192:4 3193:11 3199:21 3202:15 3216:1 3232:22 3240:7 3242:16
seeing 3063:23 3070:8 3184:16
seek 2995:13 3023:20 3134:8,8 3140:13 3231:21
seeking 3001:12,16 3007:23,23 3008:2 3009:3 3024:24 3059:9 3059:17 3087:12 3096:25 3100:15 3104:24 3130:18 3229:12
seen 3000:15 3032:16 3062:19 3065:23,25 3109:11 3112:23 3174:12 3207:6 3212:21 3215:18 3215:21 3216:3
segregation 3225:10,13
selective 3245:4,24
send 3001:22 3035:12 3043:8 3044:7 3048:11 3048:22,24 3066:24 3106:6,7 3153:8 3171:11 3171:16,18 3180:13 3232:18 3232:20
sending 3041:13 3045:24 3120:8 3121:14,18 3171:15 3172:5
senior 2994:15 2995:16,19 3032:14 3111:21 3129:21 3167:19 3168:7 3205:11 3208:4 3213:18 3228:16
sense 2986:13 3048:1 3049:24 3050:5 3053:21 3086:22 3098:11 3140:17 3142:14 3161:16 3242:20
sensitive 2995:18 3144:3 3150:13 3152:14
sensitivity 3118:9 3143:14
sent 3001:22 3034:18 3038:19 3043:5 3044:11 3044:18 3046:2 3046:10 3061:18 3070:13 3089:6 3105:11,18,19,25 3106:4,16 3107:5 3117:5,18 3119:25 3122:3 3153:24 3165:20 3169:12 3170:21 3171:3 3172:3,7 3188:15 3205:18 3238:18,19 3239:16
sentenced 3199:9
sentencing 3078:2
separate 3098:2 3166:15
separated 2999:1
September 3036:25 3039:9 3040:5 3132:15 3198:11 3222:10
series 3011:18 3033:5 3155:7 3169:13
serious 3028:6 3151:14 3154:18 3159:9 3161:9 3166:5,16,23 3167:20 3205:12 3208:23 3222:12 3230:14
seriously 3217:14 3228:9,21 3229:6
seriousness 3027:23 3030:13 3065:23 3156:6 3158:20 3164:18 3165:23 3209:8
served 3022:1 3023:3,14 3198:2 3199:9
serves 2996:9
service 3022:2 3023:4 3024:9 3186:24 3187:19 3187:23 3188:4 3188:16 3189:7
services 2992:23 2996:12 3000:1 3003:5 3006:11 3006:11 3013:20 3021:20 3024:21 3077:9 3140:12 3169:7
set 3071:21,24 3169:23 3233:3 3245:19
sets 3015:20
seven 3113:11 3160:8,10 3161:4
seventh 3210:12
Seventy-five 3012:8
shackled 3224:24
shaping 3092:22
shared 3113:19 3167:7
shifted 3012:15,16
shifting 3115:18
shipping 3224:5
short 3053:17 3054:19 3193:18 3195:4,5,7,8
shorter 3233:9
shortly 3038:13 3040:2 3092:8
show 3096:4 3122:6
showed 3095:24
show-ups 3096:1
side 3091:13 3097:11 3169:24 3186:3,11 3196:4 3219:20
sign 3227:4
signalled 3017:24
signalling 3013:22 3018:7
signed 3032:1 3034:15 3045:19 3047:9 3112:22

3226:24 3227:9
significance 3017:4 3017:6,12 3184:3
significant 3096:21 3176:3 3193:7 3196:2 3197:3 3199:17 3200:19 3202:1 3216:13
silence 3124:6
similar 3018:25 3041:22 3066:9 3066:13,15 3196:20 3202:19 3205:18
similarities 3035:20 3042:19 3153:3,6 3196:22
similarity 3042:2
simple 3006:3 3111:4 3151:20 3151:24
simply 3015:12 3057:24 3072:16 3104:21 3117:1 3118:18 3120:15 3120:17,23 3121:20 3184:1 3201:20 3236:10
situate 2988:22 2996:21 3016:23 3082:3
situated 3138:19 3139:6
situates 2996:25
situation 2998:17 3006:1 3018:25 3024:2 3042:19 3050:2 3060:13 3060:21 3091:10 3095:4 3183:13 3221:16 3240:3
situations 2990:5 3001:15 3002:12 3009:5
Six 3102:11
sixth 3114:18
slightest 3183:21
small 3143:10 3148:21
smiling 3220:6
smoothly 3086:14
snippet 3242:3
Solomon 3009:16 3055:22 3056:19 3056:21,23 3071:16 3078:8 3078:12 3108:14 3116:3
Solomon's 3071:24
somebody 3018:25 3075:10 3183:14
son 3015:14
son's 3016:9
soon 3100:7
sorry 2991:11 2997:22 3010:3 3013:6 3020:16 3036:15 3037:2 3052:18 3074:6 3085:19 3095:20 3121:6,8 3147:21 3147:23,25 3148:5,7 3151:2 3160:17,18 3162:18 3164:12 3165:5 3170:2 3179:5 3182:1 3194:6 3209:25 3212:7,9 3219:14 3230:9 3233:8 3245:1
sort 3031:14 3043:16 3077:21 3096:8 3166:21
sought 3001:10 3023:2 3055:16 3117:22 3146:1 3146:16
source 3079:23 3103:18
sources 3098:2,10 3099:22 3217:13
speak 2995:10 3010:22 3021:4,7 3021:8 3022:13 3027:11 3029:22 3030:17 3045:6 3046:22 3048:4 3056:16 3072:13 3099:1 3116:4 3136:22 3141:3 3142:23 3146:11 3157:16 3162:8 3167:8 3168:8,23 3178:22 3193:7 3201:5 3205:2 3219:5 3230:22
speaking 3055:2 3094:25 3104:14 3178:24 3179:7
speaks 3179:3 3210:11 3211:4
special 3040:24 3041:1,9,9 3060:4 3234:1
specific 2996:21 3003:25 3024:1,8 3037:7 3041:5 3050:21 3058:13 3112:13 3113:6 3134:13 3173:10 3183:8
specifically 3033:6 3040:8 3054:9 3075:8 3163:13 3173:22 3241:16
speculate 3165:15
speculating 3094:12
speculation 3165:12,13,16
spend 2989:23 3047:22 3140:15
spent 3038:23
spoke 3027:12 3029:17 3034:5 3053:16 3055:9 3056:20 3066:21 3089:20 3092:1 3093:10 3104:9 3144:18 3146:5 3156:4 3164:2 3170:8 3178:8,9 3178:21 3179:8 3185:4 3223:13 3236:22
spoken 3010:19 3025:15 3028:24 3071:20 3133:20 3133:20 3136:20 3151:3 3174:6 3237:10
spokesperson 3061:8
spouse 2989:10 3125:3,6 3199:3
spouses 3125:10
staff 2994:10 3027:17 3124:24 3125:11
stage 3150:19
stand 3044:14 3045:23 3073:21 3161:24
standard 3014:14 3231:5
standing 3233:7
start 3033:9 3122:25 3123:10 3125:2 3161:16 3178:23 3236:9
started 3026:1 3036:11 3089:19 3124:19 3187:22 3194:2 3203:18
starting 3013:16 3042:18
state 3018:3,17 3031:1 3032:11 3048:22 3050:17 3065:18 3069:19 3084:17 3095:23 3160:2 3179:21 3210:20 3218:8 3221:12 3226:3
statement 3152:24
statements 3183:14 3185:22
States 2987:2 2988:1 2989:17 2990:4,13,16,20 2990:24 2991:4,9 2991:12 2993:10 2993:11 2994:24 2998:11,21,24 2999:7,14 3000:23 3001:7 3003:1,18 3004:10,14,18,24 3004:25 3005:10 3005:14,22 3008:9,18 3012:12 3015:16 3015:16 3016:3 3028:9 3032:2,21 3049:7 3057:3,5 3083:10 3084:23 3085:3,13 3095:15 3096:23 3097:1 3099:10 3100:5 3106:17 3107:5 3117:21 3131:15 3138:1 3159:25 3169:3,8 3181:15 3189:14 3189:16,19 3208:12 3226:13 3226:19,25 3231:7,11,13
statistical 3085:8
statistics 2993:15 3019:15 3231:25
stay 2991:12 3003:18
step 3045:16 3214:8 3222:25
stepping 3087:5
steps 3037:12 3040:8 3068:14 3151:14 3213:22 3216:16,19,21,22 3217:1,14 3218:6 3218:10,15 3222:22 3223:1 3228:22 3232:17
Steven 3119:9
stop 3217:25 3232:7
story 3174:8
strange 3096:12 3131:9
strictly 3127:7
strikes 3202:22 3245:23
strongly 3193:25

study 3204:21
subject 3018:8,21 3088:4 3090:10 3099:23 3167:16 3179:21 3180:1 3190:5
subjected 3224:14
subsequently 3210:21
substance 3243:17
successful 3045:5 3092:4,9 3100:15
sudden 3217:23
sufficient 3172:6
sufficiently 3118:12
suggest 3034:21 3043:3,8 3088:4 3153:18 3154:8 3154:14 3155:15 3170:19,23 3185:23 3201:18 3209:2 3228:19
suggested 3027:25 3051:7 3061:22 3087:19 3090:16 3115:1 3153:19 3209:14 3233:25
suggesting 3029:2 3060:18 3148:15 3152:12 3168:21 3171:2 3184:4 3208:19,20
suggestion 3028:7 3032:17,24 3033:1 3087:11 3090:15 3154:5 3156:21 3157:9 3157:11 3182:9 3229:5
suggestions 3111:1
suggests 3045:4 3149:21 3190:1
summaries 3196:24 3201:13
summarize 3000:17
summary 3035:24 3110:5 3200:25 3201:1 3204:1
summer 3182:12
Superintendent 3112:3,11
superior 2997:15 3015:9 3027:11 3132:5 3144:20 3146:5 3153:25 3154:9 3193:11
superiors 3001:12 3138:5 3146:9,17 3147:2 3148:10 3149:1
supervisors 3193:12
support 3182:9
supposed 3131:20 3182:11
sure 2990:11 2994:23 2995:3 2996:10 3002:15 3018:12 3021:3 3025:14 3028:12 3035:21 3040:15 3043:23 3048:6 3050:13 3052:9 3069:15 3076:2 3078:13 3081:24 3082:15 3086:13 3103:20 3107:14 3115:15 3120:6 3123:15 3133:16 3136:5 3137:14 3137:17 3158:1 3161:15,17 3173:23,25,25 3174:12 3183:8 3183:11 3186:25 3187:4,6,12,14 3188:21,24 3189:17,20 3190:13 3191:4 3196:2 3200:11 3201:21 3203:1,3 3209:16 3212:4,6 3212:10,11 3223:11 3226:23 3231:8 3243:12
surprised 3155:23 3155:24 3229:15
suspect 3042:9
suspected 2992:1 3058:14
Suspension 3073:24 3162:1
suspicion 3115:22
swear 2986:16
switch 3178:25
sworn 2986:18,20
Syria 3018:1,22 3021:16,22,24 3023:4,13,18 3024:2,9 3066:18 3066:25 3067:2 3067:18 3095:2 3097:4 3099:24 3100:6 3103:8 3104:24 3105:20 3110:11 3113:9 3115:22 3119:1 3132:17 3162:10 3164:15 3166:14 3166:22 3167:3 3179:25 3180:4 3181:10,12,20 3188:5,12,15 3193:24 3196:8 3200:22 3207:17 3217:12,25 3218:17 3222:13 3223:15 3228:12 3229:14 3236:19 3245:17
Syrian 3023:14 3067:5 3166:17
system 3092:12 3116:24 3173:24 3227:8 3232:16

T

T 3064:7
tab 3013:5,8,13,14 3015:4 3016:18 3017:19,20 3024:19 3026:6 3033:5 3057:20 3060:17,25 3062:18 3063:2 3063:11 3064:23 3065:6 3067:22 3070:19 3071:1 3075:16 3078:20 3079:20 3081:6 3086:17 3090:24 3091:17 3096:18 3099:17 3100:18 3101:21 3104:17 3107:24 3109:8 3112:20 3115:12 3116:23 3117:11 3117:25 3118:12 3118:14 3119:10 3119:21 3120:13 3120:15,20,21,22 3121:2,3,7 3148:4 3155:7,8 3167:11 3169:10 3170:16 3206:12 3210:9 3210:10 3214:1 3236:7,15 3238:17,17 3241:1
table 3124:6
tabs 3030:9 3236:7
tags 3056:8
take 3010:13 3026:15 3068:15 3068:20 3069:11 3073:17 3082:2 3088:1 3122:19 3122:22 3123:16 3128:25 3155:25 3166:20 3176:20 3177:2 3201:3 3206:24 3213:22 3217:14 3221:9 3222:21,25 3228:2 3230:14 3236:6 3242:16
taken 3027:24 3029:10 3038:18 3038:20,21 3051:7 3074:12 3120:5 3151:15 3167:20 3181:3 3188:25 3209:6,8 3210:9 3214:13 3216:16,21,23 3217:15 3218:16 3222:22 3228:8 3228:21 3229:6 3244:4
takes 3243:21
talk 2993:10 3029:2,8 3033:25 3106:4 3110:12 3134:7,11 3147:17 3157:10 3172:13
talked 3025:18 3031:17
talking 3030:4 3093:24 3102:17 3146:4 3160:13 3160:19 3173:16 3181:9 3191:7
talks 3207:8
target 3095:9
task 2987:25
tasked 3013:25 3067:24
tasking 3018:6
Taufik 3013:21 3017:23 3018:3 3018:22 3020:24 3021:9,17,21 3022:14 3024:19 3053:7,10,16,21 3064:13 3065:1 3070:24 3073:4 3075:4 3104:7,22 3108:1 3146:2,18 3177:12,25 3178:20 3179:3 3181:23 3182:8 3182:10,24 3184:7 3185:18 3186:5,23 3187:20,22 3190:21 3192:22 3194:3 3236:11 3236:17,22 3237:13,15,16 3238:11 3240:16 3240:17,23
Taufik's 3071:6

3073:8
team 3243:12
technically 3105:9
TECHNICIAN 3162:18,25
telephone 3075:23 3225:1 3230:25 3236:11
tell 2999:10 3021:5 3058:9 3059:14 3061:4 3066:14 3072:25 3078:11 3078:24 3082:11 3095:7 3106:8 3113:15 3120:2 3136:8 3141:14 3141:23 3144:5,7 3144:7 3195:3 3208:24 3217:22 3226:20
telling 3057:1 3134:17 3140:18 3145:15,18 3148:16 3150:1 3154:10 3168:21 3174:10 3192:18 3192:22 3197:9
tells 3053:18 3146:11
ten 3161:18 3192:7 3209:6
tendency 3018:17
tending 3034:6
tentative 3119:17
term 3036:13 3181:20
termed 3067:21
terms 2989:15 2998:8 2999:8,12 2999:13,17 3001:9,11 3002:13 3004:16 3005:1,24 3006:9 3006:11 3009:9 3009:14 3011:6 3012:13 3015:1 3016:14 3025:1 3035:17 3038:15 3042:19 3049:23 3050:7 3060:24 3065:8 3067:5 3070:4 3077:8 3087:12 3090:14 3130:17 3134:13 3164:14 3173:9 3177:4 3225:9 3236:17 3244:20
terror 2992:1
terrorism 2990:6 2991:22,25 3042:9 3158:23 3159:23 3160:23 3197:18 3199:7
Terrorist 3065:19
testified 3135:19 3157:24 3167:22
testify 3182:22 3184:8 3185:18
testifying 3183:2 3183:11 3184:11 3202:23
testimony 2986:15 3006:23,23 3063:10 3097:24 3098:6 3099:13 3123:4 3175:23
text 3050:16
thank 2986:24 2987:7 2994:5 3010:6 3035:1 3036:1 3060:16 3071:7 3073:20 3074:20 3103:24 3111:14 3115:10 3120:17 3121:10 3122:17 3124:17 3128:20 3129:1 3155:11 3162:25 3163:1 3166:8 3169:9,25 3170:1 3212:24 3215:16 3223:8 3227:23 3230:18 3233:14 3234:7 3236:1 3241:3,7,9,10,13 3246:3
Thanks 3124:3
thing 3030:23 3037:19 3053:5 3063:17 3146:16 3167:5 3173:23 3174:4 3195:20 3216:13 3226:10 3240:18
things 3010:15 3044:2 3083:13 3148:14 3172:15 3172:24 3173:7 3173:19 3198:6,7 3221:19 3225:15 3240:20
think 2991:22 2999:18 3002:3 3010:11 3030:8 3030:11 3034:6 3052:7 3056:16 3067:9,10 3068:23 3070:2 3073:16 3078:17 3093:22 3094:19 3096:13 3097:8 3107:24 3110:9 3111:17 3115:12 3116:19 3118:12 3129:8 3135:19 3139:18 3148:9 3153:2 3154:22 3157:23 3171:6 3174:4,21 3178:9 3179:14 3180:22 3180:24 3182:2 3184:5 3185:14 3186:9 3189:3,4 3189:23 3195:15 3202:4 3207:22 3208:14 3210:5 3214:12 3215:5,8 3215:12 3217:21 3217:24 3221:8 3221:22,23 3222:1,14,15,21 3223:3,18 3229:8 3230:11 3231:1 3234:11 3242:7,7 3242:9,11,12,17 3242:20,24 3244:5,15
thinking 3234:4
third 2992:16 2996:24 2997:3 3027:4,5 3042:22 3043:17 3067:21 3068:6 3075:22 3105:17 3114:2 3117:12 3155:10 3239:9 3240:9
Thirty 3011:14
thoroughly 3201:24
thought 3022:13 3124:8 3145:19 3176:13 3184:12 3187:18 3219:10 3221:15 3222:11 3222:22 3233:9 3242:3
threat 3054:12 3055:6,7 3114:14 3217:14 3228:9 3228:12 3229:13
threatened 3053:20 3053:23 3057:6 3146:3,12 3191:18 3192:16 3192:23 3193:1 3193:11,24 3199:25 3200:22 3217:11
threatening 3053:22
threats 3056:18
three 2989:22 2999:19 3000:9 3049:8,9 3075:18 3078:22 3094:9 3109:1 3128:16 3133:12,18 3159:16 3160:6,7 3161:2 3173:19 3174:18 3187:12 3201:8 3238:23 3239:12,16 3240:15
Thrust 3087:25
Thursday 2986:2 3096:20 3099:17 3110:23
time 2988:25 2989:2,23 2990:15 2991:16 2992:7 2996:17 2997:15 2998:10 2998:14,16 3000:5,10 3004:10 3009:17 3009:18 3012:14 3013:17 3020:15 3021:9 3022:2 3025:8 3026:3 3028:25 3029:20 3033:22 3035:16 3036:5,8 3037:4 3037:25 3038:7 3038:22 3040:21 3041:8 3042:2 3043:20 3044:10 3047:16,16 3049:17,21 3050:23 3055:12 3059:16 3071:14 3073:16 3077:12 3078:25 3081:25 3082:16 3083:12 3083:14 3090:1,9 3090:15 3091:3 3093:1,15 3094:13 3095:6 3095:16 3096:9 3097:16 3103:11 3110:24 3115:23 3117:22 3121:15 3122:14,19,22 3123:16 3126:20 3128:15 3132:14 3132:19 3133:16 3141:12 3144:16 3146:1,4 3147:2,6 3149:11 3152:16 3154:16 3159:8 3160:15,21,23 3161:1,3,10 3163:9,10,19 3164:5,9 3166:7 3166:16,23 3169:16 3170:12

3171:25 3172:3,6 3172:9,19 3176:12,22 3177:22 3181:4 3182:19 3183:2 3189:12 3191:9 3194:12 3198:2 3198:17,21,23 3199:9 3200:10 3200:17 3202:13 3204:4,7 3205:6 3206:12,25 3207:5,7,21 3209:9 3213:15 3215:25 3219:6 3219:21 3220:15 3221:9,20 3224:1 3226:2 3228:2 3229:9 3234:12 3237:24 3241:11 3242:16 3244:15
timeframe 3038:16
timely 3214:2
times 3008:7,15 3011:17 3141:14 3173:1 3176:25 3177:11,15 3237:21
titles 3130:1
today 3019:4 3149:8,13 3201:12 3235:22 3241:16 3243:14
today's 3246:5
told 3008:16 3022:8 3027:8 3040:1 3043:20 3046:20 3047:17 3054:15 3055:19 3057:13 3066:23 3079:9 3089:20 3116:7 3125:3 3130:14 3136:22 3141:4 3145:9,15 3147:3 3148:19 3150:20 3153:23 3153:25 3155:14 3168:7 3170:5 3173:17 3176:15 3182:8 3187:24 3189:6 3193:2,6 3200:5,15 3207:15 3208:4 3216:11 3217:11 3226:15 3228:11 3234:9 3237:16 3240:19 3242:1,4
tomorrow 3068:11
tool 3009:24
top 3111:23 3113:3 3213:25 3220:11
Topalovich(ph) 3219:24
topic 3156:16
topics 3084:14
totally 3052:25 3129:25 3136:20
touch 3164:12 3210:18
touched 2996:11 3211:2
town 3135:21
training 2996:4
transcript 3210:23 3211:9
transfer 2993:19 3012:23 3083:8,9
transferred 3079:13
transfers 3083:9
transition 3115:13
transported 3079:7 3079:18
travel 2993:23 3015:20,25 3023:9,12,13,17 3026:5 3232:3,5 3232:10
travelled 3022:4,8
travelling 3015:13 3015:20 3016:3,8 3196:11
treat 3034:21 3152:15 3170:20 3170:24 3171:12
treated 3240:11
treatment 3085:2 3106:10
treaty 2993:19 3032:1 3226:18 3226:21,24 3227:2,5,9
tried 3022:11 3035:6 3053:20 3054:14 3089:25 3135:12 3170:5 3202:19
triggered 3114:3
trouble 3179:7 3206:15 3227:12
troubling 3055:3
true 3175:5 3201:13
truth 3059:15
try 2993:11 2994:3 3003:16 3011:20 3021:14 3040:14 3094:22 3157:24 3158:15,19 3162:24 3176:6,7 3176:8 3186:12 3186:15,16 3208:7,7 3217:22 3217:25
trying 3018:18 3022:13,17,18 3025:7 3032:11 3037:3 3038:23 3040:18 3046:9 3059:21 3071:19 3080:15 3091:5 3093:25 3094:21 3094:23 3097:9 3097:20 3100:10 3137:13 3142:14 3143:1 3145:13 3146:17 3148:13 3151:11 3156:17 3164:10 3180:7 3191:22 3198:25 3218:25
Tuesday 3015:5 3016:18 3017:19 3026:8 3029:16 3078:20 3079:20 3082:2 3103:22 3108:2 3136:7 3202:24,25 3236:12 3246:6 3246:16
Tunis 3015:12,12 3239:11
Tunisia 3239:6
turn 3177:6 3231:23 3232:20
turned 3089:19
turning 3084:8
Twelve 2999:15 3139:5
twice 3020:21 3141:25
two 2991:5 2992:6 2993:17 2998:23 2999:19 3000:9 3003:22 3007:20 3008:4 3013:23 3015:20,25 3016:4 3020:7 3025:12 3035:23 3036:20 3044:2,3 3046:25 3047:7 3048:10 3060:13 3062:5 3065:10 3066:20 3069:8 3079:17 3083:24 3086:10 3090:5 3091:8,8 3102:5 3118:8 3123:3,19 3126:20 3148:14 3160:8 3161:19 3166:15 3190:11 3190:13 3191:3 3191:10,11,12 3200:21 3201:7 3203:2 3218:9 3224:17 3233:2
type 3065:24 3072:10 3160:2 3166:1 3206:15
types 3216:2 3225:9
typical 3175:14,16

U

ultimate 3221:11
ultimately 3197:20 3199:6 3216:6
unable 3090:2
unclear 3025:17
uncomfortable 3202:7
uncommon 3125:9
underneath 2997:12 3108:10
understand 2989:14 2992:5 2996:4 3007:2,19 3012:16 3021:19 3022:18,19 3030:20 3042:8 3045:9,10 3051:14 3055:4 3057:7 3060:5 3082:8 3085:16 3087:21 3095:18 3115:3 3116:2 3124:19 3130:13 3134:10 3140:25 3145:14 3146:13 3146:17 3151:11 3152:19,20 3154:3 3172:16 3183:23 3184:25 3188:11 3203:6 3204:8 3208:21 3209:7 3214:4,17 3219:2 3220:17 3226:22 3227:11 3227:17
understanding 3008:23 3022:22 3022:25 3054:17 3061:1 3098:1 3111:19 3125:9 3139:20 3143:1 3170:4 3174:9 3194:2 3211:8 3222:8,18 3226:17 3231:10
understood 3175:23 3203:13 3213:4 3215:3
undertake 3087:3 3182:8,15 3183:17 3184:7

3213:2 3217:2
undertaken 2998:20 3029:4 3037:4 3038:11 3216:19 3223:2 3228:22
undertaking 3081:18 3091:12 3111:6 3183:3 3185:17 3201:4
undertook 3027:14 3040:9 3134:9 3152:17
Undoubtedly 3229:18
unexplained 3096:9
unfair 3242:8,18
unfairness 3184:11
unfolding 3026:10
Unfortunately 3218:24
unique 3118:14
unit 3060:4,6
United 2987:2,25 2989:17 2990:3 2990:13,16,20,23 2991:4,9,11 2993:10,10 2994:23 2998:11 2998:21,24 2999:7,14 3000:23 3001:7 3003:1,17 3004:10,14,18,23 3004:25 3005:10 3005:14,22 3008:9,17 3012:12 3015:16 3015:16 3016:3 3028:9 3032:2,21 3049:6 3057:3,5 3083:10 3084:23 3085:3,13 3095:14 3096:23 3097:1 3099:10 3100:5 3106:17 3107:5 3117:21 3131:15 3138:1 3169:3,7 3181:15 3189:14,16,19 3208:12 3226:13 3226:19,25 3231:7,11,12
unnamed 3164:2
unredacted 3237:23
unusual 3036:21 3141:9 3147:20 3150:21 3151:13 3154:9,14 3156:20 3161:8 3233:15 3243:20
upcoming 3147:17
update 3100:24 3107:20 3116:6
uploading 3117:2
upset 3183:25
upstairs 3072:20
urge 3184:1
urgent 3152:23
USA 3102:21
use 3002:3,10 3009:23 3010:9 3010:12,13,16 3044:15 3050:16 3105:3 3124:1
useful 3010:1
USINS 3110:9
usual 3007:25 3149:3
usually 3076:11
U.S 3002:23 3003:25 3031:3 3037:14 3038:4 3038:11 3040:19 3068:4 3079:6,7 3080:20,22 3083:1 3087:21 3095:23 3096:24 3097:21 3098:14 3101:8 3113:19 3113:23 3114:3,7 3114:16 3115:4 3129:14 3163:3 3163:15,18 3164:2 3168:16 3169:4 3204:25 3205:6,11 3208:13 3211:13 3218:5,20 3219:5 3219:20 3231:2 3232:4,19,25 3233:17

V

vague 3059:6
vaguely 3136:21
valid 3016:9 3232:9
value 2995:16
varies 3011:21 3012:1
various 2990:4 2991:2,2 3000:18 3003:7,10 3005:25 3169:6
vast 3004:22 3005:8
verify 2993:11 3231:23
verifying 3080:1
version 3237:24
Veuillez-vous 2986:6 3073:22 3074:3 3162:5 3246:14
Vienna 2990:7 3225:17 3226:7,8
view 3080:6 3144:10 3185:13 3196:19
violation 3058:11 3059:7,24 3197:22 3198:2 3199:9
violations 3166:17
visa 3023:11
visit 3018:8 3046:10,12,14,16 3051:20 3062:22 3063:15 3064:17 3064:17 3065:7 3067:21 3069:25 3126:23 3147:17 3147:17 3197:11 3207:8
visited 3063:9 3154:25 3200:7
visiting 3058:5
visits 3197:13
vis-à-vis 3083:7
Vitae 2987:9
vital 2993:15 3019:15 3231:25
voice 3012:4 3021:5 3081:19
Volume 3101:21 3117:12 3120:17 3121:4 3236:6
volumes 3013:4 3101:20 3116:23 3120:16

W

wait 3011:24 3031:19 3043:3 3044:13 3045:22 3059:2 3093:5,23 3171:7
waiting 3082:22 3208:24
Waldman 3025:19 3101:23 3122:18 3122:20,25 3123:8,13,18 3124:8,11,18 3125:1,8,13,16,18 3125:22,24 3126:2,4,8,14,18 3126:22 3127:8 3127:12,16,19,22 3127:25 3128:4,8 3128:13,18,21,24 3129:3,8,13,16,20 3130:3,9,13,25 3131:8,19,25 3132:4,7,10,13,22 3133:3,8,15,22 3134:10,17,24 3135:3,9,13,23,25 3136:3,6,12,24 3137:2,6,24 3138:3,8,11,15,18 3138:24 3139:3,6 3139:9,12 3140:1 3140:6,8,17,25 3141:7,16,20 3142:2,7,13,25 3143:7,10,16 3144:9,15,24 3145:2,13,22 3146:21 3147:1,8 3147:14,19,25 3148:13,24 3149:14,19,21 3150:1,9,18,23,25 3151:7,10,19 3152:1,11,19 3153:17 3154:7 3154:21 3155:3,8 3155:10,14,21,25 3156:8,12,19 3157:2,8,18,23 3158:3,7,12,15,19 3158:25 3159:8 3159:12,17,20 3160:3,7,12,18,25 3161:4,7,12,14,20 3162:6,12,23 3163:1,8,12,17,22 3164:1,7,13 3165:1,6,14,18 3166:3,8,12,20 3167:1,10,14 3168:2,5,11,15,20 3169:9,12 3170:2 3170:11,15,18 3171:1,17,20,23 3172:11,21 3173:5,10,15 3174:2,17,24 3175:4,8,11,15,18 3175:22 3176:2,8 3176:10,14,18 3177:4,9,14,18,23 3178:2,7,11,16 3179:2,6,12,18 3180:19,25 3181:2,16,22 3182:10,17 3183:22 3185:3,9 3185:16 3186:12 3186:21 3187:4,8 3187:11,21

3188:2,8,13,20
3189:6,10,25
3190:10,19,25
3191:7,16,20,25
3192:3,8,11,14,19
3193:5,20 3194:7
3194:14,19,22
3195:1,5,10,13
3196:5,10,15,18
3196:23 3197:7
3197:12,16,20
3198:4,8,19
3199:5,13,16
3200:9 3201:21
3202:16 3203:5
3203:10,17,21,25
3204:8,11,14,18
3204:23 3205:10
3205:16 3206:4,9
3206:22,24
3207:5,14 3208:3
3208:18 3209:12
3209:25 3210:25
3211:7,23 3212:1
3212:4,12,13,17
3212:25 3213:1,7
3213:21 3214:23
3215:14,17,21,24
3216:4,11,20
3217:5,18
3218:14,23
3219:9,14,17,22
3219:25 3220:3,6
3220:9,16,23
3221:10,14,18
3222:6,17,20
3223:5,8,19,23
3224:1,5,9,12,16
3224:22 3225:4
3225:14,19,23
3226:6,10,15,20
3227:10,17,23
3228:4 3229:2,7
3229:18,24
3230:3,10,18,24
3241:14,24
3242:14 3243:1,6
3243:11 3244:7
3244:10,17,19
3245:2,22
walk 3134:6
want 3007:6
3018:19 3028:4
3043:20 3048:25
3049:3 3060:19
3075:9 3078:1
3093:21 3098:11
3098:15 3113:12
3117:16,23
3124:13 3135:13
3137:19 3151:20
3153:23 3157:7
3158:12 3161:18
3172:4,13,16
3176:4 3182:4
3183:20 3184:6
3202:16 3203:12
3209:12 3210:6
3213:1 3223:10
3228:4,7,19
3229:2 3234:8
3236:5 3239:13
3241:14 3242:15
3244:10,13,14
wanted 3022:16
3043:21,23
3044:2,3 3049:4
3059:22 3083:14
3107:25 3123:1
3135:16 3136:15
3139:23 3147:16
3161:16 3188:1
3213:7 3227:10
3232:23 3233:1
wanting 3107:20
wants 2993:18
3070:12 3074:7
3081:23 3150:14
3227:1
ward 3058:1,8
3063:13 3159:22
warned 3208:22
warning 3228:16
warnings 3228:21
warranted 3063:21
warrants 3232:23
Washington
3028:1 3029:2
3030:19 3031:24
3032:15,19,19
3033:20 3045:11
3050:14 3051:1
3054:22 3055:2
3080:4,14,21,25
3082:5,18,19
3086:19 3087:11
3087:18 3088:3,8
3091:13,20
3092:16,19
3094:8 3106:3
3108:18 3149:6
3154:11 3155:17
3156:21 3157:16
3158:4 3167:21
3168:22,23
3205:2 3208:23
3210:17 3213:14
3213:15,20
3214:16 3221:1,7
3234:17 3241:17
wasn't 3047:3,18
3052:4 3134:2,2
3137:11 3142:20
3149:23,24
3152:16,16
3153:21 3156:2
3167:17,24
3169:15 3170:6,7
3182:13 3189:17
3197:3,13
3198:13,16,17
3200:7 3201:7
3204:4,15
3230:14 3243:15
watch 3158:13
watching 3123:6
Watt 3119:9
3120:25
way 3006:6
3031:25 3034:1
3034:22 3050:1
3053:1 3076:3
3094:23 3105:7
3128:9 3130:22
3175:20 3183:10
3184:6 3185:1,11
3185:24 3186:13
3186:14 3188:9
3188:21 3195:19
3202:1 3204:12
3220:12 3221:6
3245:17
ways 3003:7
3185:14
weaponry 3002:4
website 3003:11
Wednesday
3028:16 3031:11
3031:16 3033:4
3057:21 3062:22
3063:8 3086:17
3091:19
week 3013:15
3141:17 3222:9
weekend 3164:3
3202:24 3231:1,2
weeks 3036:20
3039:12 3040:3
3051:23
weigh 3002:6,21
3059:21
wellbeing 3036:11
3036:17,18
3088:17
wellbeing/where...
3198:25
wellbeing/where...
2996:14
went 3055:2
3089:23 3125:18
3139:22,25
3145:7 3147:15
3174:1 3193:7
3229:16
weren't 3074:18
3165:6 3180:10
3185:20,21
3205:8 3224:2
3225:2,16
we've 3062:19
3063:10 3070:19
3097:24 3107:24
whereabout
3036:19
whereabouts
3036:12 3088:17
3180:6
white 3074:19
3235:9
wife 3021:4
3036:20,21
3071:4,6 3073:13
3119:4 3198:24
3203:22 3204:6
willing 3185:18
wish 2986:17
3183:14,15
3185:11 3186:8
3241:22
wit 3065:20
witness 3148:3
3182:7 3183:5,15
3183:16,18
3184:14,24
3185:22 3186:5,7
3186:14 3195:21
3202:8 3211:5
3242:22
witnesses 3182:11
3184:22
wondering 3015:18
3041:17 3093:7
3241:22
words 3003:3
3032:18 3040:12
3096:24 3142:8
3152:2 3235:12
3235:14,20
work 2989:24
2991:18 2992:19
2993:13,15,21
2999:8 3012:3
3014:15 3126:19
3127:2 3186:15
3220:12 3244:23
worked 2991:5
3244:22
working 2992:8
3000:6 3023:7
3026:3 3085:13
3124:20 3126:10
3198:23
workload 2999:3,4
3004:8
works 2986:13

3131:3
world 3139:1
worldwide 3004:17
worry 3162:20
wouldn't 3008:20 3022:18 3159:25 3207:25 3208:8 3211:21 3219:9 3220:3,13 3222:24 3225:4 3232:10
write 3127:17
writing 3044:4 3070:13 3104:15 3177:13
written 3002:1 3028:23 3108:7 3175:1
wrong 3191:5 3199:23
WSHDC 3122:5,8

X

X 2992:4 3034:24 3034:25 3035:8 3035:17,18,25 3036:3,5,8,10,19 3036:25 3037:3 3037:13,15,24 3038:6,12,23 3039:1,8,22 3040:20 3041:16 3041:22 3042:4,9 3046:2,7,11,12,21 3051:20 3060:7 3060:15 3066:3 3079:2,17 3084:12 3092:24 3092:25 3153:4 3159:12,17 3160:22 3196:13 3196:20,25 3197:9 3198:9 3199:1,7,18,25 3200:15 3201:13 3201:20 3203:15 3204:15,20 3205:1 3224:23 3228:13
X's 3035:9 3170:20

Y

Y 2992:5 3035:25 3036:4 3051:11 3051:13,15,18,21 3051:22 3052:3 3060:7,15 3066:3 3079:17 3084:13 3153:4 3159:13 3159:18 3160:22 3171:13 3196:13 3196:20,25 3197:2,8 3199:6 3199:19,25 3200:15 3201:14 3201:20 3203:14 3224:23
year 2987:15 2990:14 3004:13 3049:9 3126:25 3149:5
yearly 3083:10
years 3067:2 3126:20 3128:16 3133:12,18 3160:20 3173:19 3174:19 3187:12
York 3013:24,25 3014:5 3016:25 3018:6 3026:10 3027:6 3030:16 3037:9 3040:9 3045:22 3059:2 3062:7 3075:18 3079:25 3080:2 3081:11 3085:17 3107:18 3132:16 3146:10 3151:9 3163:5 3198:11 3239:19 3240:20
Y's 3228:13

À

à 2986:4 3073:24 3074:1 3162:1,3 3246:17,19

0

00 3246:19
02 3073:24
09 2986:4

1

1 3013:5,8,13 3033:24 3236:6
1st 3015:5 3016:19 3017:20 3020:7 3026:8 3044:18 3136:1,4,6,7 3144:18 3145:18 3179:19 3222:11 3223:14 3236:12
1,700 2990:12,16 3004:9 3143:6,17 3144:6 3172:18 3173:3
10 3017:20 3024:19 3071:10 3072:23 3101:5 3179:14 3179:15 3236:7,7 3236:9,15 3241:1 3246:7,19
10th 3082:7 3083:25 3096:20 3099:18 3102:16 3132:16 3137:9 3137:12 3234:12
10:00 3246:17
10:09 3214:14
10:25 3053:17 3192:8
10:26 3192:9
10:36 3056:3,20,21
100 3187:12
104 3112:20
11 3026:7 3069:1,2 3073:5,15,24 3074:1,9,19 3155:8 3167:11
11th 3083:25 3084:8 3118:15
11:02 3073:23
11:19 3073:25
11:31 3064:9 3075:17
1158 3071:11
12 2994:24 2999:13 2999:13 3000:9 3074:23 3139:4 3144:6 3162:1
12th 3084:8
12:00 3020:18 3237:25
12:02 3116:15
12:17 3237:25
12:18 3122:1
12:26 3078:6
12:50 3161:25
13 3078:4
1314 3025:4
1320 3072:23 3073:4
1338 3073:7
1339 3064:12 3065:4
1354 3065:2
14 3078:4,10 3162:3 3169:10
1400 3069:9 3074:11
1400-1428 3074:16
1409 3056:13
1422 3081:6
1428 3069:10 3074:11
1443 3081:10
15 3011:17 3027:18 3073:19 3081:3,4 3162:3 3246:18
15th 3103:22 3107:10
1516 3078:9
1538 3091:18
16 3057:21 3110:24
16th 3012:25 3072:3 3108:4 3109:15 3111:10 3111:22 3115:12
1647 3026:24
17 3060:17 3103:25 3104:1,3 3107:11 3238:3,6
17th 3116:11
1700 3160:13 3161:5
1731 3100:19
18 3062:18 3104:1 3107:12
18th 3112:24 3116:14,24
19 2986:2,4 3063:2 3074:1 3102:6,10 3102:11 3108:5
1993 3129:5 3130:10
1993/1994 3129:10
1994 3129:16 3130:10
1996 2987:20 3126:9
1997 3129:16
1998 2995:25
1999 2987:17,18 2989:4 3124:20 3124:25 3126:10 3127:10

2

2 3020:3,7 3180:25
2nd 3028:17 3033:4 3041:14 3052:12,16 3057:22 3062:16 3062:23 3136:4 3144:23,24 3147:3,5 3148:10 3148:25 3155:5 3169:17 3170:8 3191:23 3192:1 3214:13 3217:9
2,500 2990:14
2:00 3089:1
2:15 3161:20,23 3162:2
20 3011:17 3061:1 3143:18
2001 2988:5 2989:4 2991:16 3036:25 3039:9
2002 3013:1,2 3016:23 3121:16 3149:13,14 3217:23
2003 2997:23 2998:18 3117:11

3121:4 3122:1
2005 2986:2,4 3246:16,18
209 3116:23
22 3116:1
22nd 3116:11
2228 3211:9
23 3033:5 3116:5 3116:15 3148:4 3170:16 3171:17 3214:1 3225:11
235 3206:19 3213:6
235(c) 3205:19 3206:16,25 3207:19,23 3213:2,8 3215:18 3216:7
24 3032:5 3093:5 3246:16,18
24-hour 3093:8
26 3063:12
26th 3132:15
27th 3013:23
28 3111:16,20
29 3064:23 3191:1

3

3 2997:1 3020:3 3117:13 3118:1 3211:15,16 3237:23
3rd 3063:8 3064:3 3136:18,24 3137:1,14 3151:12,23 3155:1 3159:2 3191:5 3206:14 3207:15 3210:4 3217:9,23 3218:16 3228:12 3228:14
3,000 2990:15 3004:13 3049:13
3:40 3246:15
30 2999:20,22 3012:1 3141:5 3143:18
30th 3222:10
300,000 3085:7
31 3065:6 3206:12
31st 3116:3
34 2986:4 3067:22
36 3032:3
39 3070:19

4

4 3015:4 3025:2 3117:14
4th 3068:24 3069:4 3069:5 3070:18 3136:3,10,13,25 3137:15 3147:7,8 3149:1 3150:3 3151:13,23 3225:25 3226:5
40 2999:21 3011:14 3012:1 3071:1 3141:5 3246:18
416 3117:12,25
434 3119:11,21
435 3120:13
436 3118:12,14
44 3075:17
45 3078:20
450 3178:6
47 3079:20 3081:6

5

5 3052:13,14 3102:3,12 3117:12
5th 3164:3 3231:1
50 3012:1 3162:1
52 3197:1
53 3197:1
54 3086:17
55 3090:25 3091:18
57 3096:18
59 3099:17

6

6 3052:15 3053:15 3102:6,9 3117:13 3117:15 3118:1 3191:20
6th 3164:3 3231:1
6,000 3085:7
60 3100:18
662 3120:16,21
697 3121:3,9

7

7 3052:15 3056:6 3056:13 3076:25 3120:17 3122:1
7th 3074:5,24 3078:5 3121:4
703 3210:9,10 3211:21
709 3101:21
72 3032:5
75 3141:5
78 3104:17 3107:24

8

8 3064:3,5 3101:21 3121:4 3211:17 3236:7 3238:17
8th 3078:20 3079:20 3082:2 3211:25 3212:16 3222:11 3223:14
8:49 3034:18
82 3010:5
84 3109:8
85 3004:20 3226:12
88 3115:12

9

9 3016:18 3064:3
9th 3039:22,23 3082:6 3084:4 3086:18 3153:5 3159:10,14 3205:9,15 3210:20
9/11 3025:25 3040:3 3083:13
9:19 3104:8
9:20 3052:20,21 3053:8
9:27 3064:6
9:29 3053:6,11 3104:9
9:30 3034:19 3053:12 3171:1
9:32 3053:8
9:34 2986:3
9:53 3042:23 3043:18 3171:4