



## **Summary of Information Received at *In Camera* Hearings**

### **NOTE:**

**This summary relates to information received at hearings from September 13 to 29, 2004. The summary was prepared by Commission staff and it is subject to revision and addition by the Commission.**

**There are a number of points that should be made clear about the purpose and content of the summary. First, the summary is not a comprehensive ruling by the Commissioner as to the portions of the evidence that can be publicly released. Rather, the summary has been prepared in order to inform the public, in general terms, about the Inquiry's *in camera* hearings. It is anticipated that a more detailed description of the evidence will be publicly released when the Commissioner makes his ruling(s) on National Security Confidentiality (NSC), either during or after the *in camera* hearings. The Commissioner will also rule, in future, on the government's NSC claims over information that is contained in the SIRC Report, the Garvie Report and other documents, as he considers appropriate. Additional information received at the Inquiry's hearings to date may also be released in future summaries.**

**Next, the summary does not reflect findings or factual conclusions on the part of the Commissioner. Additional information received at future hearings may differ from information that is summarized here. Any information in this summary that reflects negatively on any individual or organization should be treated as inconclusive until the end of the Inquiry.**

**Finally, the summary in many instances does not fully reflect the probing of witnesses, by Commission counsel, particularly where relevant information in the testimony is being disclosed at the present time. Information has been excluded or synthesized in the summary in order to present a logical account of evidence that is deemed to be both relevant and significant. The summary also excludes information that is subject to a valid NSC claim and where, in the Commissioner's opinion, the public interest in non-disclosure is not outweighed by the public interest in disclosure. Further, some information has been excluded for reasons of fairness, including consideration of the inability of individuals to cross-examine witnesses whose testimony affects those individuals, the need to account for conflicts in the evidence, and the need not to mislead the public. In particular, to avoid unfairness, information has been excluded where it involves speculation or where it may be contradicted by other evidence. The unusual nature of publishing information by summary has led the Commission to exercise caution in avoiding undue emphasis on evidence that may yet be called into question.**

1. The Inquiry received information in contextual presentations by a CSIS officer and an RCMP officer. The presentations summarized ongoing CSIS and RCMP investigations relating to national security. The purpose of the presentations was to provide contextual or background information for the events involving Mr. Arar and to indicate why information that concerns ongoing investigations should be kept confidential for reasons of National Security Confidentiality. Information in the presentations was not presented for the purpose of establishing the culpability of individuals subject to those investigations, but rather for the purpose of providing a background against which the actions of Canadian officials involving Mr. Arar could be reviewed.
2. Following these contextual presentations, the Inquiry heard evidence from nine CSIS officers. Their testimony is summarized below. Any significant divergence of testimony, deemed significant, is reflected in the summary.
3. Prior to Mr. Arar's detention and deportation, [REDACTED]  
[REDACTED]
4. Within one month of September 11, 2001, CSIS transferred to the RCMP primary responsibility for national security investigations on a number of targets that were believed to warrant criminal investigation and possible charges. [REDACTED]  
[REDACTED]  
[REDACTED] An RCMP-coordinated investigation project was created. The project was called Project O Canada and its operation in Ottawa was called Project A-O Canada.
5. This transfer of investigations allowed CSIS to focus its resources on security threats that were less clear and to search for new threats. It was a very extensive transfer of investigations by CSIS to the RCMP. The transfer of investigations was not made simply because of resource limits. CSIS believed that there was a good possibility that the RCMP would be able to lay criminal

charges against the individuals whose files had been transferred. Even with its resource allocation before the budget cutbacks of the 1990s, CSIS would have made the same decision to transfer the investigations. As yet, there have been no prosecutions of any of the individuals in question. However, criminal investigations continue as does the prospect of criminal charges under the new anti-terrorism legislation that was introduced in Bill C-36.

6. Following the transfer of investigations to the RCMP, CSIS took a less aggressive role in the investigation of the targets in question. However, CSIS continued to monitor and collect information on the targets. Following the transfer of investigations, CSIS continued to pass on to the RCMP information collected by CSIS, [REDACTED]
7. Information provided by CSIS in disclosure letters to the RCMP was normally subject to caveats that it be used only for the pursuit of investigative leads and that it not be used to obtain search warrants or authorizations for intercepts, or to support prosecutions.
8. CSIS exercises tight control over the dissemination of its information. After September 11, 2001, CSIS staff warned the RCMP that, when dealing with foreign security intelligence agencies, the RCMP should protect the integrity of CSIS' information. They did so to ensure that CSIS' information, contained in RCMP databases, was being appropriately protected.
9. Following the transfer of investigations to the RCMP, the RCMP provided CSIS with reports on its ongoing investigations. These reports summarized the RCMP's ongoing investigations. Some of the information provided by the RCMP, through Project A-O Canada, [REDACTED]
10. CSIS officers maintained an ongoing relationship with members of Project A-O Canada. Since the creation of Project A-O Canada, CSIS officers had two dozen,

or more, meetings with members of Project A-O Canada. A CSIS officer testified that CSIS was kept up to date about the RCMP's relevant ongoing investigations.

11. [REDACTED]  
[REDACTED]  
[REDACTED] The information was accompanied by written caveats that the information was loaned in confidence, and that it not be used as evidence or reclassified or disseminated, without the consent of CSIS.

12. Mr. Arar was detained at JFK Airport in New York on September 26, 2002. In a report dated September 26, 2002, the RCMP informed CSIS that Mr. Arar would be denied entry into the U.S. [REDACTED]  
[REDACTED] a CSIS witness testified that [REDACTED] the report was in fact received and read by CSIS on October 3. [REDACTED]  
[REDACTED]

13. In a report dated September 27, 2002, the RCMP informed CSIS that Mr. Arar was being detained and interrogated in New York. [REDACTED]  
[REDACTED] a CSIS witness testified that [REDACTED] the report was in fact received and read by CSIS on October 3. [REDACTED]  
[REDACTED]

14. CSIS first learned of Mr. Arar's detention from DFAIT on October 2, at which time DFAIT asked CSIS what it knew about Mr. Arar. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

15. After receiving DFAIT's request in relation to Mr. Arar, a CSIS officer advised other CSIS staff that Mr. Arar had been arrested in the U.S., that DFAIT had advised that the arrest did not appear to relate to an immigration matter, and that DFAIT had advised that "it could be much bigger".

16. Also on October 2, CSIS headquarters in Ottawa requested its Washington office to contact U.S. authorities to seek clarification about the circumstances and reason for Mr. Arar's detention in the U.S. The CSIS office in Washington, which had three staff at the time, handled hundreds of information requests per month. This request was treated as a routine request by CSIS since Mr. Arar already had consular assistance and [REDACTED] [REDACTED] Also, the request was not made a priority because CSIS expected that, if Mr. Arar was deported from the U.S., he would be deported to Canada. Finally, CSIS was aware that other Canadian agencies were involved.

17. On October 7, the RCMP provided CSIS with a report that stated that "Project A-O Canada submitted a request through channels [to U.S. authorities] to allow investigators access to Maher Arar to conduct an interview". The report also stated that Mr. Arar "was detained by U.S. [REDACTED] [REDACTED] upon trying to enter the U.S. on the 27<sup>th</sup> of September". [REDACTED] [REDACTED]

18. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

19. CSIS learned of Mr. Arar's deportation to Syria on October 9, from two sources, one at DFAIT and the other at Project A-O Canada. DFAIT had obtained this information from the RCMP.

20. [REDACTED]  
[REDACTED]  
[REDACTED] a CSIS request for information from U.S. authorities about Mr. Arar's [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

21. [REDACTED]  
[REDACTED] a CSIS request for information from U.S. authorities about Mr. Arar's [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

22. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

23. On October 14 or 15, CSIS was informed by DFAIT that Mr. Arar may be in Syria. On October 22, CSIS received confirmation from DFAIT that Mr. Arar was in Syria. Subsequently, CSIS was informed by DFAIT that Mr. Arar had advised its officials that he had been in Jordan briefly, was taken to the Syrian border, and was given to Syrian authorities.

24. [REDACTED]

25. [REDACTED]

26. [REDACTED]

27. After Mr. Arar's deportation, CSIS continued to receive information about Mr. Arar. On October 24, CSIS received information from DFAIT about Mr. Arar from

sources in Syria. A DFAIT report was generated which included information about statements allegedly made by Mr. Arar while in detention in Syria. On November 6, CSIS received an Arabic copy of a statement, obtained by DFAIT from a Syrian official. The statement was allegedly made by Mr. Arar while in detention in Syria.

28. For national security reasons, CSIS may have to enter into relationships with a foreign agency of a country that has a poor human rights record. In such cases, CSIS exercises caution by closely scrutinizing the content of information provided to, or obtained from, the foreign agency and by instituting checks and balances to ensure that none of the security intelligence information exchanged with the foreign agency is used in the commission of human rights violations.
29. Generally speaking, CSIS only discloses information to a foreign agency of a country in which there are human rights concerns after considering various issues. These issues include the potential use to which the foreign agency may put the information, especially if it concerns Canadians, and the degree of the threat that an affected individual poses to national security. Further, CSIS considers the ability and willingness of the foreign agency to respect caveats and protect the information from public disclosure.
30. CSIS was concerned that, if Mr. Arar was tortured or mistreated in Syria, this would make it difficult for Canada to deport other individuals to Syria.
31. By mid-January, 2003, Canadian officials became aware that Mr. Arar could be imprisoned in Syria for a very long time and that he could be sentenced to death. A CSIS witness agreed with the statement that the Canadian government should do everything possible to secure Mr. Arar's release from Syria.



32. In May, 2003, the CSIS liaison officer at DFAIT advised CSIS that the DFAIT Security and Intelligence Bureau was considering sending an officer to Syria to interview Mr. Arar. The Bureau asked CSIS whether CSIS had any questions for Mr. Arar. A CSIS witness testified that, to his knowledge, no questions were sent. Government counsel advised, at the hearing, that the contemplated interview with Mr. Arar did not take place.

33. In May and June, 2003, CSIS objected to a DFAIT proposal to send a joint ministerial letter – from both the Solicitor General and the Minister of Foreign Affairs and International Trade – to the Syrian government requesting Mr. Arar’s release. In particular, CSIS objected to the proposed statement that “the Government of Canada has no evidence that Mr. Arar was involved in terrorist activity nor is there any impediment to his return to Canada”. CSIS supported alternative language as follows: “Mr. Arar is currently the subject of a National Security Investigation in Canada. Although there is not sufficient evidence at this time to warrant Criminal Code charges, he remains a subject of interest. There is no Canadian government impediment to Mr. Arar’s return to Canada.” A letter, with modified language, was eventually sent by the Prime Minister on July 11, 2003. That letter stated: “I can assure you that there is no Canadian government impediment to [Mr. Arar’s] return”.

34. [REDACTED]

35. [REDACTED]  
[REDACTED]  
[REDACTED]

36. As mentioned above, [REDACTED]  
disclosure of which would be injurious to international relations, national defence  
or national security. [REDACTED]  
[REDACTED]

37. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

38. [REDACTED]  
[REDACTED]  
[REDACTED]

39. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

40. With respect to the Commissioner's mandate to make recommendations in Part 2  
of the Inquiry, several CSIS witnesses testified that the CSIS review mechanism  
– consisting of the Security and Intelligence Review Committee (SIRC) and the  
Inspector General – are very effective. The prospect of review occupies a high

position in the mindset of CSIS staff. This is very effective in keeping CSIS within the bounds of appropriate behaviour and its mandate.

41. In response to a question about caveats, a CSIS witness testified that, when applying caveats, he did not tend to think of the prospect of review by SIRC. Nevertheless, he testified that CSIS staff are very conscious of the policies that surround the use of caveated information and that there could be a review if an error occurs.
  
42. Another CSIS witness testified that, although the CSIS review bodies are seen as time and resource-intensive by frontline staff, from an organizational point of view the review bodies increase internal accountability. The same witness also testified that, following the implementation of the new anti-terrorism legislation post 9/11, there is now more overlap than ever before between CSIS' work and the RCMP's work in relation to national security, which is a requirement to preclude things 'falling between the cracks'.