

(U) Background

- (U) In March 2008, we published a report, *The Removal of a Canadian Citizen to Syria*, OIG-08-18. That report assessed the processes and procedures used by United States immigration officials to deny Maher Arar admission to the United States and subsequently remove him to Syria.
- (U) Mr. Arar, a dual citizen of Canada and Syria, arrived at New York's John F. Kennedy (JFK) International Airport on September 26, 2002, from Zurich, Switzerland. Mr. Arar applied for admission to the United States so he could transfer to his connecting flight to Canada, his country of residence.
- (U) While en route from Zurich, the Department of State's (DOS) "TIPOFF" system identified Mr. Arar as a "special interest" alien who was suspected of affiliations to terrorist activity and was described as "armed and dangerous." At the time of Mr. Arar's arrival in the United States, the TIPOFF database was the principal database containing names of known and suspected terrorists. Upon his arrival at JFK, Immigration and Naturalization Service (INS) inspectors referred him to secondary inspections, where investigators from the Federal Bureau of Investigations' Joint Terrorism Task Force (JTTF) questioned him. The JTTF investigators concluded that they had no interest in Mr. Arar as an investigative subject, and then turned him over to INS inspectors. However, INS inspectors determined Mr. Arar inadmissible to the United States under relevant provisions of immigration law. INS officials analyzed the derogatory information regarding Mr. Arar's background, sought clarification of the facts and statements made by U.S. agencies that provided the information, and determined the appropriateness of the specific immigration charge. INS concluded that Mr. Arar was likely a member of a terrorist organization.
- (U) On Tuesday, October 8, 2002, Mr. Arar was transported by INS officials to Teterboro Airport in New Jersey, and then flown by private aircraft to Dulles International Airport near Washington, DC. From Dulles, Mr. Arar was flown to Amman, Jordan, where he was later transferred to the custody of Syrian officials.
- (U) Syrian officials released Mr. Arar and he returned to Canada in October 2003. He alleged that he was beaten and tortured while in the custody of the Syrian government. Mr. Arar sued the governments of Canada and the United States for the alleged wrongful removal to Syria.

(U) Assurances

- (U) Assurances obtained from a country to guarantee that an alien would not be tortured are normally obtained through DOS. The Secretary of State then provides the assurances

received from the relevant country's government to the United States Attorney General.¹ The nature and reliability of such assurances, and any arrangements through which such assurances might be verified, requires careful evaluation before a decision is reached that removal is consistent with the United States Convention Against Torture obligations.

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(U) The DOS attorney stated he became aware that our report might be inaccurate when a DOS attorney from the Office of the Legal Advisor reported that he had overheard a conversation about Mr. Arar. In that conversation, it was alleged that the former Deputy Secretary of State might have known about the decision to remove Mr. Arar to Syria. The DOS attorney who made this disclosure stated that his office contacted the former Legal Advisor as well as the former Deputy Secretary of State. The former Legal Advisor told the attorney that he was not aware of DOS involvement in Mr. Arar's removal, while the former Deputy Secretary of State stated that he recalled a brief telephone conversation he had with the former Deputy Attorney General about Mr. Arar. The attorney stated that he was unable to identify an official record of the conversation between the former Deputy Secretary of State and the former Deputy Attorney General.

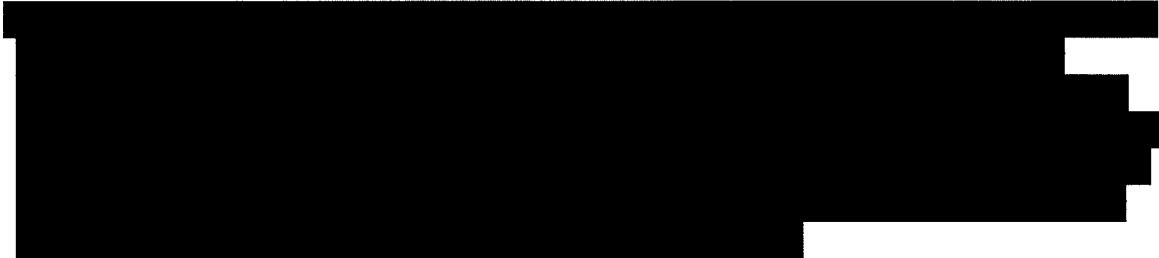
(U) Recall of Former Department of State Officials

(U) We discussed Mr. Arar's removal with the former Deputy Secretary of State. The former Deputy Secretary of State confirmed that he had discussed Mr. Arar's removal with the former Deputy Attorney General. Although he could not provide the date or time of the call, the former Deputy Secretary of State recalled that the former Deputy Attorney General called him. The former Deputy Secretary of State told us that his initial impression was that Mr. Arar was a Canadian and the Royal Canadian Mounted Police was relinquishing custody of him to the Syrians. The former Deputy Secretary of State stated that the former Deputy Attorney General said Mr. Arar had dual citizenship – Canadian and Syrian. The former Deputy Secretary of State added, the former Deputy Attorney General asked whether DOS had any foreign policy objections to removing Mr. Arar to Syria. The former

¹ (U) This was the process in 2002. In the current (U) process, the Secretary of State provides assurances received from the relevant country to the Secretary of Homeland Security.

Deputy Secretary of State indicated that he replied “no.” The former Deputy Secretary of State stated that the former Deputy Attorney General did not ask that he provide diplomatic assurances. The former Deputy Secretary of State stated that his only concern was whether Mr. Arar was a United States citizen. The former Deputy Secretary of State added “Syria was helping us with Al Qaeda.” The former Deputy Secretary of State indicated that he did not remember any intra-agency discussions pertaining to Mr. Arar’s removal. The former Deputy Secretary of State said that he understood the reason that Mr. Arar was being removed was he was a terrorist suspect. The former Deputy Secretary of State characterized the telephone conversation with the former Deputy Attorney General as very brief – only two of three minutes, and casual. The former Deputy Secretary of State stated that he had not been asked to provide diplomatic assurances in this case and had not received a similar telephone call from the former Deputy Attorney General before. The former Deputy Secretary of State suggested that we talk to the former Ambassador for the Office for Coordination for Counterterrorism, who was at DOS at the time of the Arar matter.

(U) Subsequent to our interview with the former Deputy Secretary of State, we interviewed the former Legal Advisor. He told us that normally his office would have been involved in a similar removal matter. However, he reaffirmed that he was unaware of DOS involvement in Mr. Arar’s removal.

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(U) Recall of the Former Deputy Attorney General

- (U) In our final interview, we discussed DOS' role in the Arar matter with the former Deputy Attorney General. The former Deputy Attorney General stated, "After 9/11, it was clear to us that national security law enforcement efforts [and] national security efforts in general were directly related to immigration concerns. Immigration legal matters were very complex." The former Deputy Attorney General said that he had worked very closely with the former Deputy Secretary of State in various deputy meetings and the former Deputy Secretary of State and he had established a very close relationship. The former Deputy Attorney General stated "I didn't know to what extent that he'd [the former Deputy Secretary of State] been in the loop, but I certainly want[ed] to, as colleagues, to make certain that I contacted him." When asked what he talked with the former Deputy Secretary of State about, the former Deputy Attorney General replied, "I just think I told him what was happening, and what had been recommended that we do." And, "that he [Arar] was a dangerous person and this is what we were going to do." When asked whether he was seeking diplomatic assurances from DOS, the former Deputy Attorney General responded, "prior to reviewing [your] record of the interview [with] the former Deputy Secretary of State, I had really no recollection of the conversation other than the fact that I believed that it occurred. And again, what I was doing was following the procedure that I had usually followed in terms of dealing with my colleagues on the Deputy's Committee, which was to call them and let them know what might be going on at Justice that might be of interest to their agency. And again, as I think, I used the word comity, and the call was really as a matter of comity, for him to know what we were doing." The former Deputy Attorney General further stated, "I want to be transparent with a colleague as to what was transpiring at the Department of Justice."
- (U) Mr. Arar requested to go to Canada in his protection hearing. However, the former Deputy Attorney General signed a memorandum that stated Canada was not an option because returning Arar to Canada would be prejudicial to the United States. The former Deputy Attorney General indicated that he made this decision based on belief that Mr. Arar was a dangerous person and the porous nature of the Canadian/US border would allow Mr. Arar easy access to the United States.

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(U) Conclusion

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Addendum Distribution

(U) Department of Homeland Security

- (U) DHS Secretary
- (U) DHS Deputy Secretary
- (U) Acting Commissioner, Customs and Border Protection
- (U) Assistant Secretary, Immigration and Custom Enforcement
- (U) Director, Citizenship and Immigrations Services
- (U) CBP OIG Liaison
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(U) Department of Justice

- (U) Office of the Deputy Attorney General
- (U) Office of Legal Counsel
- (U) Federal Bureau of Investigation, Inspections Division
- (U) Inspector General
- (U) Counsel, Office of Professional Responsibility

(U) Department of State

- (U) Office of Legal Advisor

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(U) Office of Management and Budget

- (U) Chief, Homeland Security Branch
- (U) DHS Program Examiner

(U) Congress

- (U) Congressional Oversight and Appropriations Committees, as appropriate