### Binder Table of Contents

**C: Interviews**

<table>
<thead>
<tr>
<th>Binder</th>
<th>Tab</th>
<th>Document Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>C1</td>
<td>1</td>
<td>Record of Interview -- Entrance Conference (2/3/04)</td>
</tr>
<tr>
<td>C1</td>
<td>2</td>
<td>Record of Interview -- CIS Attorney (12/12/05)</td>
</tr>
<tr>
<td>C1</td>
<td>3</td>
<td>Record of Interview -- CIS Attorney (2/7/05)</td>
</tr>
<tr>
<td>C1</td>
<td>4</td>
<td>Record of Interview -- CIS Attorney (7/27/05)</td>
</tr>
<tr>
<td>C1</td>
<td>5</td>
<td>Record of Interview -- (8/29/05)</td>
</tr>
<tr>
<td>C1</td>
<td>6</td>
<td>Record of Interview -- ICE OPLA (12/23/04)</td>
</tr>
<tr>
<td>C1</td>
<td>7</td>
<td>Record of Interview -- and ICE OPLA (2/1/05)</td>
</tr>
<tr>
<td>C1</td>
<td>8</td>
<td>Record of Interview -- CIS Attorney (8/30/05)</td>
</tr>
<tr>
<td>C1</td>
<td>9</td>
<td>Record of Interview -- BTS Attorney (7/12/05)</td>
</tr>
<tr>
<td>C1</td>
<td>10</td>
<td>Record of Interview -- BTS Attorney (10/14/05)</td>
</tr>
<tr>
<td>C1</td>
<td>11</td>
<td>Record of Interview -- ICE OPLA (8/22/05)</td>
</tr>
<tr>
<td>C1</td>
<td>12</td>
<td>Record of Interview -- CIS Attorney (8/2/05)</td>
</tr>
<tr>
<td>C1</td>
<td>13</td>
<td>Record of Interview -- ICE OPLA (8/29/05)</td>
</tr>
<tr>
<td>C1</td>
<td>14</td>
<td>Record of Interview -- LESC/ICE (10/12/05)</td>
</tr>
<tr>
<td>C1</td>
<td>15</td>
<td>Record of Interview -- CBP (2/8/05)</td>
</tr>
<tr>
<td>C1</td>
<td>16</td>
<td>Record of Interview -- ICE officials re: renditions (9/22/04)</td>
</tr>
<tr>
<td>C1</td>
<td>17</td>
<td>Record of Interview -- CBP NY (10/6/05)</td>
</tr>
<tr>
<td>C1</td>
<td>18</td>
<td>Record of Interview -- Relevant Inspectors, CBP NY (10/6/05)</td>
</tr>
<tr>
<td>C1</td>
<td>19</td>
<td>Record of Interview -- CIS Asylum NY (10/5/05)</td>
</tr>
<tr>
<td>C1</td>
<td>20</td>
<td>Record of Interview -- CIS Asylum NY (10/5/05)</td>
</tr>
<tr>
<td>C1</td>
<td>21</td>
<td>Record of Interview -- Arar's Attorney (10/6/05)</td>
</tr>
<tr>
<td>C1</td>
<td>22</td>
<td>Record of Interview -- USAO/ED/VA (12/15/05)</td>
</tr>
<tr>
<td>C1</td>
<td>22(a)</td>
<td>Record of Interview -- (4/11/06)</td>
</tr>
<tr>
<td>C1</td>
<td>23</td>
<td>Record of Interview -- DOS (2/4/04)</td>
</tr>
<tr>
<td>C1</td>
<td>24</td>
<td>Record of Interview -- DOS (2/4/05)</td>
</tr>
<tr>
<td>C1</td>
<td>25</td>
<td>Record of Interview - [Redacted], DOS (3/25/04)</td>
</tr>
<tr>
<td>-----</td>
<td>-----</td>
<td>-----------------------------------------------</td>
</tr>
<tr>
<td>C1</td>
<td>26</td>
<td>Record of Interview - [Redacted] (10/20/04)</td>
</tr>
<tr>
<td>C1</td>
<td>27</td>
<td>Arar Interview Matrix</td>
</tr>
<tr>
<td>C1</td>
<td>28</td>
<td>New York Interview List - Provided by CBP and ICE</td>
</tr>
<tr>
<td>C1</td>
<td>29</td>
<td>Email - &quot;[Redacted] Interview&quot; (5/24/04)</td>
</tr>
<tr>
<td>C1</td>
<td>30</td>
<td>Email - &quot;RE: [Redacted] Interview&quot; (6/2/04)</td>
</tr>
<tr>
<td>C1</td>
<td>31</td>
<td>Email - &quot;Arar CBP docs and other arrangements&quot; (6/13/05)</td>
</tr>
<tr>
<td>C1</td>
<td>32</td>
<td>OIG and Attorney Correspondence - [Redacted] interview (7/12/05)</td>
</tr>
<tr>
<td>C1</td>
<td>33</td>
<td>Email - &quot;RE: Arar&quot; (7/13/05)</td>
</tr>
<tr>
<td>C1</td>
<td>34</td>
<td>Faxes - [Redacted] and [Redacted] (8/9-8/10/05)</td>
</tr>
<tr>
<td>C1</td>
<td>35</td>
<td>Correspondence - &quot;OIG Interview of [Redacted]&quot; (8/11/05)</td>
</tr>
<tr>
<td>C1</td>
<td>36</td>
<td>Correspondence - &quot;Investigation of Maher Arar&quot; (8/12/05)</td>
</tr>
<tr>
<td>C1</td>
<td>37</td>
<td>Correspondence - &quot;OIG Interview of [Redacted]&quot; (5/29/05)</td>
</tr>
<tr>
<td>C1</td>
<td>38</td>
<td>Email - &quot;Arar interview update&quot; (12/9/05)</td>
</tr>
</tbody>
</table>
RECORD OF INTERVIEW

DATE & TIME: Tuesday, February 3, 2004 @ 1:00 p.m.

LOCATION: Chester Arthur Building
425 Eye Street, N.W.
Room 3241
Washington, DC

PARTICIPANTS: Bureau of Immigration and Customs Enforcement
(ICE): See attachment

OIG:

[Redacted]

Chief Inspector

[Redacted]

Team Leader

[Redacted]

Senior Inspector

PURPOSE: Entrance Conference - Review of the Removal of Maher Arar to Syria by the Immigration and Naturalization Service (INS)

INFORMATION OBTAINED:

• [Redacted] stated that [Redacted] and [Redacted] are the review team for the [Redacted] of the [Redacted].

• DOJ has to [Redacted] since [Redacted] during the period in question covered by our review. [Redacted] can only be [Redacted].

• [Redacted] has not officially [Redacted] as to [Redacted].

• [Redacted] mentioned by [Redacted] entailed [Redacted]. [Redacted] also advised that our workpapers for the Arar review might be [Redacted]. This is of additional concern because [Redacted]. [Redacted] may be [Redacted].
clarified that we will only
who were
recommended that we first consult
to obtain
(Note: we have a copy of ).

is now (part of

Contacts

is the Advisor.

is the attorney for who is

is in the Detention & Removal Office (for field interviews).

is the Officer.

Follow Up

ICE attorneys ( ) will identify the appropriate
DOJ contact to

will contact regarding concerns with issues.

Written by
Reviewed by
### Entrance Conference: OIG Review of the Removal of Immigration Detainee to Syria
February 3, 2004 • 1:00 p.m. • Room 3241 - OMI Conf. Room

<table>
<thead>
<tr>
<th>Name</th>
<th>Org.</th>
<th>Tel. Number</th>
<th>FAX Number</th>
<th>E-Mail Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>Management Inspections</td>
<td>OIA-ICE</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>ICE</td>
<td>OIA-ICE</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Deportation Officer</td>
<td>DHS-ICE Investigations</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>BTS</td>
<td>DHS-ICE NSU</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>&amp;</td>
<td>DHS-ICE Intelligence</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Robert Ashbaugh</td>
<td>DHS-OIG</td>
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<td><a href="mailto:Robert.Ashbaugh@dhs.gov">Robert.Ashbaugh@dhs.gov</a></td>
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<tr>
<td>Supervisor Program Analyst</td>
<td>DHS-OIG</td>
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<td>Team Lead</td>
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<td>DHS-ICE</td>
<td>DHS-ICE</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

OIG-2-03-04
Review of the Removal of Maher Arar to Syria by INS in October 2002

Memorandum of Record

PURPOSE: Interview an attorney for the U.S. Citizenship and Immigration Service (CIS) who dealt with

DATE: Monday, December 12, 2005, at 2:30 p.m.

LOCATION: [Redacted], Washington, D.C.

ATTENDEES: [Redacted], Office of Chief Counsel, CIS — (202)

[Redacted]

PREPARED BY: [Redacted]

At the time of Arar's removal to Syria (October 2002), [Redacted] was [Redacted] for the [Redacted], working in the

Former [Redacted] and former [Redacted] told that

While

The context of Arar's removal included

Unlike [Redacted] entails the

also involved the. Under the

[Redacted]
said that they did not know whether they would have remembered. However, they said they would have remembered.

Possible Further Contacts:

- [Redacted] office
- [Redacted] officer
- [Redacted] office
Review of the Removal of Maher Arar to Syria by INS in October 2002

Memorandum of Record

PURPOSE: Summary of a meeting held with an attorney for the U.S. Citizenship and Immigration Service (CIS) regarding OIG access to relevant CIS interview subjects and documents.

DATE: Monday, February 7, 2005, @ 11:00 a.m.

LOCATION: [Redacted], Washington, D.C.

ATTENDEES: [Redacted]

PREPARED BY: [Redacted]

Discussion:


Recalls hearing about Arar's case.

Described the Arar matter as [Redacted]. They were asked to [Redacted]. For example, [Redacted] (see below).

Documents developed by [Redacted] that contained information [Redacted], said the
said that it was as if because the intent was

Another agency

opined that it was then that

In terms

did not claim a

because since

therefore a

worked to

by using

Interviews

•  former was characterized as

•  former now

•  former now

•  former

•  was former

•  The former who currently works in office.

•  A current named

•  is the current

•  officers at
Conclusions:

[redacted] had a file of documents related to the Arar matter. [redacted] said [redacted] would copy and provide them to us.

[redacted] will provide a list of contacts at CIS for us to interview, specifically associated with [redacted]. In addition, [redacted] will review our list of “Interview subjects”, and “Specific” and “General” documents and information requests, and provide information on interview subjects and related documents.

[redacted] said we would begin interviewing relevant CIS personnel next week (week of February 14, 2005).
Doc. #39
Review of the Removal of Maher Arar to Syria by INS in October 2002

Memorandum of Record

PURPOSE: Interview an attorney for the U.S. Citizenship and Immigration Service (CIS) who

DATE: Wednesday, July 27, 2005, @ 2:00 p.m.

LOCATION: Washington, D.C.

ATTENDEES: CIS – (202) 353-2820, DHS OIG

PREPARED BY: 

Role and Initial Experience

was 

The Arar matter was first brought to attention around

Arar was first apprehended at the JFK POE on Thursday, September 26, 2002.

Charging Decision

was made to

this meant that

agreed with

""

was privy to

and had read

was told that

did not doubt the

determined that

especially if

the first instance for

LAW ENFORCEMENT SENSITIVE
Conversely, it was not entailed that the office could be considered an Intelligence Agency.

Access to Counsel

There was much thought by the office that the office also wanted to do that stuff but did not know whether.

Country Designation

Managed the office, during which.

CAT Determination and Assurances

Key issues was affirmed that but did know the reason. Nonetheless, assumed that also retrieved can describe the process. Under.

However:
INS OGC had a meeting that was called and led by . They were concerned about the investigation and believed that should be acknowledged. They stated that it was a known fact.

Specific Questions from CIS Document Review

In the "Memorandum to," (from) "decided to because . Why was this?"

According to , "" means a .

After . However, in a . but that would not .

How were these rectified and by whom?

While the . provided a more . stated that there was . probably did not have .

Follow Up

- Interview for the former INS and now with .
- Interview former and now .
- Interview former and now .

will provide additional documents for the CIS response received by the OIG.

LAW ENFORCEMENT SENSITIVE
Doc. #40
Review of the Removal of Maher Arar to Syria by INS in October 2002

Memorandum of Record

PURPOSE: Interview an attorney who
was the

during Arar’s apprehension and
removal.

DATE: Monday, August 29, 2005, at 10:30 a.m.

LOCATION: Washington, D.C.

ATTENDEES:

Prepared by:

Role and Initial Experience

[Redacted] was the
at the

time (September/October 2002).

I first learned of the case
which would have advised

with whom I most frequently worked were

a general role in the Arar case consisted of

served as

The case was eventually

which dealt mostly with

This happened around

(Arar was first apprehended on
September 26, 2002).

provided information on

treated as “

in addition, had a clearance level.

Country Designation
is clear.

role in the... was... was applied
were forwarded to... which advised
[15x101].

only advised on... (around...—must pinpoint), a meeting of high-level officials was held at the DOJ Command Center.

At this meeting, they

While the... However, according to... This was also the impression of... Arar’s request to be returned to Canada was disregarded because of... Therefore,... found out that... The issue of removing Arar to...

did not recall whether... did not... and only... participated in...

did not know whether... However, I believed that... While... thought that... was more likely than not to...
believed that [redacted] knew [redacted] because that is [redacted]

Post-Removal Meeting

[deleted] called a meeting of [deleted] expressed that [deleted] in terms [deleted] in order to [deleted]” However,

the INS in [redacted] sought to

After Sept. 11, [redacted] After the Arar matter.

Other Issues

- [deleted] speculated that [redacted] unless [redacted] because the U.S. government wanted to [redacted]
- [deleted] was not aware of [redacted]

Future Interviews

- INS NSU agent
- INS NSU agent
- INS NSU agent
- INS NSU agent
Doc. #41
Friday, January 23, 2004

Purpose: To meet with DHS, Bureau of Immigration and Customs Enforcement (ICE) and pertinent DHS ICE officials to review the unclassified Alien File (A-File) for Maher Arar

Source: National Security Law Division, Office of the Principal Legal Advisor, DHS, Immigration and Customs Enforcement, Washington D.C. 202

A-File of Mr. Maher Arar

Scope/Methodology: Met with reviewed the A-File for Maher Arar, obtained copies of pertinent portions of the file, and recorded relevant information into the data collection instrument (DCI) prepared by

Discussion:

On January 23, 2004, Senior Inspector, DHS Office of Inspector General (OIG) and Senior Inspector, DHS/OIG, met with, who directed us to, to review the subject's A-File. provided us with Mr. Maher Arar's A-File and subsequently mentioned that while no classified A-File existed, requested that we identify and tag any documents in the unclassified A-File that we wanted to copy. Once we had a chance to review the file and had an opportunity to review the documents we identified for copying, asked a member of the Administrative Support staff to copy the OIG-designated documents.

stated that once ICE addresses the FOIA request submitted by Mr. Arar's attorneys, would store the A-file as they would any other A-File.

While reviewing the A-File, we noticed. When asked if stated that was unaware of

Conclusion: Met with pertinent officials with DHS/ICE, reviewed Maher Arar's A-File, obtained copies of relevant documents, and recorded appropriate data into the DCI.
Review of the Removal of Maher Arar to Syria by INS in October 2002

Memorandum of Record

PURPOSE: Summary of a meeting held with two ICE counsels regarding OIG access to ICE interview subjects and related documents.

DATE: Tuesday, February 1, 2005, @ 10:00 a.m.

LOCATION: Washington, D.C.

ATTENDEES:
- National Security Law Division, Office of the Principal Legal Advisor, ICE DHS – (202) 514-
- Commercial and Administrative Law Division, Office of the Principal Legal Advisor, ICE DHS – (202)
- DHS OIG
- DHS OIG

PREPARED BY:

Discussion:

reviewed the “Joint Memorandum Regarding Treatment of Privileged Information in Arar v. Ashcroft, et al.” with informed that we would complete all Washington, DC-area interviews before proceeding to New York.

said that the order issued by former Deputy Attorney General Larry Thompson, on October 7, 2002, that authorized Arar’s removal, was not classified.

said that used the that we reviewed around March 2004, as

From our list of interview subjects and specific documents and information requests, that we forwarded to ICE around October 2004, we received the following updates:

INS Headquarters/DC interviews

Field Operations: ICE, in Washington, DC
INS/New York District and JFK International Airport interviews

Special Agent: ICE, in New York
Special Agent: ICE, in New York

Specific documents and information requests

Order issued by former Deputy Attorney General Larry Thompson, on October 7, 2002, authorizing Arar's removal on national security grounds: referred us to the Office of the Deputy Attorney General, U.S. Department of Justice.

Copies of any Significant Incident Reports related to Arar's detention and removal. We will attempt to locate.

General documents and information requests

Documentation relating to immigration case actions and Arar's detention between October 1 and October 6, 2002. ICE will provide any relevant communications, including emails and Records of Investigation.

Were any documents suggesting that Discussion of this issue was classified. We will need to contact the agency that was the source of this information and obtain permission to review relevant documents provided by . Most significantly,

Documentation relating to the facts supporting the "Decision of order by [redacted] issued October 7, 2002, to remove Arar. were the sole supporting documents used by ."

Conclusions:

• It was determined that ICE OPLA will provide input to DHS OGC on which materials to be provided to DHS OIG contain privileged material.

• will participate in all OIG interviews of ICE personnel. We will notify as our primary point of contact, of all interviews and
documents that we request. We will also contact [redacted] before we release any related documents to any external entities.

- [redacted] will get us permission to review the “attorney notes” file, which is both privileged and classified.

- We will seek to interview [redacted], former INS [redacted] and [redacted], former [redacted] on [redacted] in Washington, DC during the week of [redacted].

- We will meet with relevant CBP and CIS officials regarding the same issues of interviewing relevant CBP and CIS personnel and obtaining documents.

- [redacted] said that we had already contacted [redacted] about an interview. If necessary, we will interview [redacted] in a SCIF facility. [redacted] said that we will need permission from [redacted] before we can discuss their information regarding Arar.

- [redacted] will provide contacts for [redacted] in order to obtain blanket permission to interview relevant personnel and obtain documents. [redacted] provided the names and contact numbers for the POCs at [redacted] on February 3, 2005.

- In order to discuss classified information with various interviewees, we will need to obtain permission from the agencies that were the sources of that information.
Doc. #43
Review of the Removal of Maher Arar to Syria by INS in October 2002

Memorandum of Record

PURPOSE: Interview, INS Office of General Counsel (OGC)

DATE: Tuesday, August 30, 2005, at 10:30 a.m.

LOCATION: Washington, DC

ATTENDEES: Refugee and Asylum Law Division, Citizenship and Immigration Services (CIS) – 202

PREPARED BY: DHS OIG

Role and Initial Experience

had not (during around)
first learned of the Arar case when had a role
because had not The Arar case was because of the which caused the case to be
in terms of

Attorney/Consular Access

knew that did not know whether also had no personal knowledge as to whether provided an email

FOR OFFICIAL USE ONLY

2
CAT Determination

[Redacted text]

said that the decision to remove Arar to Syria was Arar would not be subjected to torture.

[Redacted text]

Assurances

While [redacted], confirmed that [redacted], while [redacted], was unaware of [redacted]. However, in determining the process for obtaining the assurances, [redacted] does not consider [redacted]. The process for assurances is [redacted].

Post-Removal Meeting

[Redacted text]

called a meeting of [redacted]. Participants in the meeting expressed [redacted].

Future Interviews

- Asylum Program
Doc. #44
Review of the Removal of Maher Arar to Syria by INS in October 2002

Memorandum of Record

PURPOSE: Summary of a meeting held with an attorney for the Border and Transportation Security (BTS) Directorate regarding role in the Arar matter.

DATE: Tuesday, July 12, 2002, @ 10:15 a.m.

LOCATION: Washington, DC

ATTENDEES: (202)

DHS OIG

PREPARED BY:

[redacted]

provided an initial legal explanation that any discussions has with us regarding the Arar matter involve role as counsel with the INS in dispensing legal advise, which is covered by legal privilege.

Background

During the applicable period of September 26-October 8, 2002, was provided legal advice on national security matters to the INS.

Role in Arar Case

They were looking for , Arar was apprehended at the JFK POE (on September 26, 2002) because . Arar registered as a TIPOFF hit before arriving to transit through JFK. According to , Arar was . Available immigration options included charging Arar under Immigration and Nationality Act (INA) section 240 (to remove and charge using a Notice to Appear) or
under INA section 235(c) (denying entry on national security grounds). According to
emphasized that this matter was estimated that the Arar matter were classified. The case involved

The Arar case was because Specifically, Arar departed for Tunisia in September 2002 and was a dual citizen (Syrian and Canadian), said that the information found was

However,

An INS form I-147 (Notice of Temporary Inadmissibility) was lawfully served on Arar at JFK. Then, an INS form I-148 (Final Notice of Inadmissibility) was served on Arar

This was important because


met with provided relevant information to

INS Eastern Region Director, had the ultimate authority to rule Arar inadmissible under 235c. reviewed drafted the Regional Director’s decision served on Arar

would have meant Arar represented a national security concern, during meetings in Washington, DC that

also said that

Arar was removed.

determined the country to which the process to determine the
country to which Arar was removed. said that was

INS OGC had a meeting led by OGC attorneys were

principally worked with the following personnel on the Arar matter:

Former INS

Asylum Division, General Counsel's office,

expert for

National Security Unit

Department of Justice:

Deputy Attorney General's office

Stuart Levey, Associate Deputy Attorney General

Criminal Division

FBI

FBI

(sp.), counsel, FBI

Another Agency

counsel, at

at

analyst, at

OGC unit, at

Three principal groups within the former INS were involved: NSLD, with the charging documents; Asylum Division, with the CAT assessment; and group, which researched the extent to which the INA allows the United States to remove unlawful aliens to third countries.

Specific Questions from Document Review

What actions were taken in response to

LAW ENFORCEMENT SENSITIVE
believed that DOJ was [redacted] in that
This decision to [redacted] was made on [redacted], after which

In the [redacted]
Why was this [redacted]?

This question is more appropriately addressed to [redacted]

A conference call on [redacted] was held that involved [redacted]

[redacted] said [redacted] had no role regarding [redacted]
I had a follow-up interview with EARLY this morning (10/14/05). is an early riser like me. You were not in yet and I also knew you were tied up with the S&T review.

Here is a summary of the interview:

1. meeting regarding Arar actually occurred on . This explains how . During this time, they did not know . At

2. The meeting on was actually a teleconference that involved . It was here that . Canada was quickly ruled out as a country of return because of the "porous border" argument. INS still does not know .

3.Significantly, asserts that specifically stated that was involved in this communication. said out of these discussions, definitively said also asserted that

4. The decision to was made on .

5. We noted that INS did not stated that this was . speculating that it may have been , but pragmatically, it made the back and forth of who was responsible for what much simpler.

6. worked with issues to include said this effort was in part to

7. - in a meeting on - in responding to a question about , regarding what had happened to , said that they became immediately concerned about

8. The decision to remove Arar to Syria was made at the DOJ meeting on 10/4.
9. The decision to remove Arar to Syria. This underscores that the case was considered because of the possible risks involved. My comments: If we had \(\text{felt the case was considered because of the possible risks involved.}\)

10. This underscores that the case was considered because of the possible risks involved. My comments: If we had \(\text{felt the case was considered because of the possible risks involved.}\)

11. This underscores that the case was considered because of the possible risks involved. My comments: If we had \(\text{felt the case was considered because of the possible risks involved.}\)

12. After the decision was made to remove to Syria, we were \(\text{gave me plenty of names at that we can talk to if Bob elects to do so.}\)

Chief Inspector
Inspections and Special Reviews
Office of Inspector General
Department of Homeland Security
202-254...
202-254... fax
Doc. #46
Review of the Removal of Maher Arar to Syria by INS in October 2002

Memorandum of Record

PURPOSE: Interview an attorney for the U.S. Bureau of Immigration and Customs Enforcement (ICE) on Arar’s country designation and Convention Against Torture (CAT) assessment.

DATE: Monday, August 22, 2005, at 2:00 p.m.

LOCATION: Washington, DC

ATTENDEES: ICE – 202-

PREPARED BY:

Overall Role and Initial Experience

In September/October 2002, was for the former INS

did not recall when first learned of the Arar case, but said it was probably was counsel for INS). A role in the Arar case was limited because

At the INS OGC, was responsible for

As such,

What?
Arar was apprehended in ______________________ because of ______________________. Arar’s case was ______________________ to ______________________ knowledge.

Country Designation Process

The general process for determining to which country an alien should be removed is in Code of Federal Regulations, Title 8, Section 241. However, this Section applies mainly to 240 immigration removal proceedings. ______________________ who ______________________ (which we possess) helped to ______________________, which involve ______________________

The Attorney General, by statute, has the ultimate authority to determine the destination countries for aliens ordered removed. Arar’s request to be returned to Canada was disregarded because the relevant national security information meant that his removal to Canada was prejudicial against the United States. ______________________ definition of prejudicial was that Arar could easily return to the United States from Canada because of its proximity and “open border” with the United States.

The Deputy Attorney General (DAG), as the Acting Attorney General, struck Canada as the original country of designation and approved the re-designation of the country of removal to Syria. Former INS Commissioner James Ziglar, however, formally re-designated to Syria based largely on ______________________ believed this occurred the first week of October 2002.

attended meetings at ______________________. The meetings were held in the DOJ Command Center and were attended by representatives of the DOJ ______________________

Arar’s CAT Determination

said that ______________________ did not have ______________________ so ______________________ did not know ______________________ diplomatic
assurances process for Arar's removal to Syria. He also did not know whether 
If [redacted], would have been 
However, Arar could have 
According to 

Service of Charging Documents 

did not know whether the 

Consular and Legal Access 

did not believe that 

Other Issues 

INS Eastern Region Director, was going to cancel Arar's withdrawal unless he agreed to go to Syria because he had the statutory discretion 
U.S. immigration policy, a withdrawal is treated as if the alien never attempted to 

In a [redacted] requested a meeting with [redacted]. He recalled that [redacted] was 

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could not attend because

Fellow Up Interviews

* [Redacted], INS attorney.
* [Redacted], INS attorney.
* [Redacted], INS attorney.
* [Redacted], INS attorney.
Doc. #47
Review of the Removal of Maher Arar to Syria by INS in October 2002

Memorandum of Record

PURPOSE: Interview an attorney for the U.S. Citizenship and Immigration Service (CIS) and Maher Arar's Convention Against Torture (CAT) assessment.

DATE: Wednesday, August 2, 2005, @ 2:30 p.m.

LOCATION: [Redacted], Washington, D.C.

ATTENDEES: [Redacted], CIS - (202) [Redacted]

PREPARED BY: [Redacted]

Role and Initial Experience

[Redacted] was [Redacted] with the former INS, in the [Redacted]

I first became aware of the Arar matter on [Redacted]

[Redacted] had "no idea" what worked through [Redacted] did not understand

Charging Decision

The I-147 (Initial Notice of Inadmissibility) served to Arar [Redacted]

Attorney/Consular Access

[Redacted] "[Redacted]." However, the
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[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

Country Designation

While [Redacted] discussions relating to INS having the authority to disregard an alien's choice of the country for removal (for Arar, Canada). Still,

[Redacted]

Overall, Arar was sent to Syria

CAT Determination

[Redacted]

[Redacted]

[Redacted]
However, [redacted] thought that.

According to [redacted], [redacted] stated that [redacted].

This was done by [redacted], the INS attorneys used the information garnered during the asylum interviews to make a legal determination on relevant claims.

The applicable companion regulations for CAT are at CFR, Title 8, Section 208.18.

[redacted] did not know why.

In fact, [redacted] did not believe [redacted].

Removal

[redacted] did not realize [redacted].

The Operations Order to remove Arar to Syria was written on October 6, 2002. Therefore, [redacted] said [redacted].

Post-Removal Meeting

After Arar was removed on October 8, 2002, [redacted] called a meeting and believed that [redacted].

Future Interviews
attorney who is now an attorney with. 
Doc. #48
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Review of the Removal of Maher Arar to Syria by INS in October 2002

Memorandum of Record

PURPOSE: Interview an attorneyINS Office of the Commissioner during Arar's apprehension and removal.

DATE: Monday, August 29, 2005, at 2:00 p.m.

LOCATION: Washington, DC

ATTENDEES: Office of the ICE Principal Legal Advisor – 202

DHS OIG

PREPARED BY:

Role and Initial Experience

At the time (September/October 2002), was the. was also the

first learned of the Arar case, but could not recall the exact date. The general role in the Arar case consisted of

was not concerned about removing Arar. OIG asked about

did not recall

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Country Designation

said that DOJ made the decision to remove Arab to Syria, but was not sure when. The Attorney General had the ultimate authority to determine the destination countries for aliens ordered removed.

DOJ, including their Office of Legal Counsel (OLC),

said, which is qualified as hearsay, that said that

did not know what prompted

CAT Determination

did not know whether

did not know why

know that the CAT is implemented in U.S. law and regulation and directs that aliens can apply for relief. However, INS can remove an alien to a country where the person was more likely than not to be tortured if assurances are obtained that the alien will not be tortured.

Attorney/Consular Access

did not know whether

In terms of whether was called by but was not aware that

Other Issues

emphasized that

did not know when Arab was transferred to MDC.
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- said that the service of the I-147
  )was

Future Interviews

- INS: OGC attorney
Review of the Removal of Maher Arar to Syria by INS in October 2002

Memorandum of Record

PURPOSE: Interview INS role in the Arar matter.

DATE: Wednesday, October 12, 2005, at 1:30 p.m.

PHONE CONFERENCE PARTICIPANTS: ICE

Attorney at Law (for)

DHS OIG

PREPARED BY:

affirmed for that this interview was not being recorded and we would memorialize the results of our review in a report that would be provided to for review and comments before public dissemination.

Background

first learned of Arar’s case in, but did not recall specifically when, knew that Arar was intercepted at JFK due to a lookout. did not recall who specifically informed of Arar’s case.

The circumstances and

Charging

did not have any discussions on Arar’s case with, and did not recall any relevant discussions with, talked to about the
Arar's case.

The decision to charge Arar under 235(c) was made within the first day or two after his apprehension [around September 27-28]. INS Headquarters brought up the possible charge.

Arar was served with the Regional Director's Decision on October 7, 2002. The Decision was written by INS attorneys (could not recall).

Country Designation

According to [redacted], the Attorney General at the time had the ultimate authority to determine the destination countries for aliens ordered removed. In addition, the Attorney General had the authority to disregard Arar's request to be returned to Canada [which Arar made officially on October 4, 2002].

The Attorney General at the time [Larry Thompson, Acting AG] made the decision and [redacted] did not know why [redacted] summarized that "prejudicial to the United States" meant against the interests of the United States.

CAT Determination

[redacted] had no knowledge of [redacted] received no

[redacted] was not aware whether [redacted] had no related discussions on
Access to Counsel/Canadian Consulate

[Redacted]

said that [Redacted]
Review of the Removal of Maher Arar to Syria by INS in October 2002

Memorandum of Record

PURPOSE: Summary of a meeting held with attorneys for the U.S. Bureau of Customs and Border Protection (CBP) regarding OIG access to relevant CBP interview subjects and documents.

DATE: Tuesday, February 8, 2005, @ 2:00 p.m.

LOCATION: Washington, D.C.

ATTENDEES: Enforcement – (202)

Counsel – (202)

DHS OIG

DHS OIG

PREPARED BY:

Discussion:


said he had spoken with counsel in the DHS Office of General Counsel, regarding our review. We responded to several of questions deriving from conversation with:

- CBP (probably attorneys) can be present for our interviews with CBP personnel, and will be responsible for determining whether any information discussed during these interviews is privileged. We will not tape record any interviews with CBP personnel.

said that CBP’s involvement in the Arar matter was Therefore, CBP will probably

Conclusions:
We agreed to review relevant documents at CBP HQ, where CBP attorneys can determine which documents are privileged (including investigative files).
Doc. #51
Review of the Removal of Maher Arar to Syria by INS in October 2002

Memorandum of Record (MOR)

PURPOSE: Summarization of the meeting with Immigration and Customs Enforcement (ICE) officials concerning Extraordinary Renditions

DATE: Wednesday, September 22, 2004 @ 1:00 p.m.

ATTENDEES:

LOCATION: Washington DC

PREPARED BY:

This meeting was held in response to a memorandum dated August 10, 2004, from Clark Kent Erwin (IG) to Michel Garcia (Assistant Secretary, ICE) that requested additional information concerning Maher Arar. The OIG initiated a review of the Arar case in January 2004.

DACS is the database that contains records of all aliens charged with immigration violations and removed from the United States.
Interestingly, [redacted] might be agreed to provide the OIG with:

opined that it was possible that could have could have been

(OIG Note: If this did happen, there would be
should have included

necessarily have been a . However, There would not
must be known.)

stated that

also stated that

In a side bar conversation with [redacted] agreed to provide (via facsimile) the OIG with a copy of the Form I-148 that directed the removal of Arar and a copy of [redacted].
Memorandum of Record

PURPOSE: Interview the [redacted] for INS who [redacted] the initial apprehension and detention of Maher Arar in September 2002.

DATE: Thursday, October 6, 2005, at 9:30 a.m.

LOCATION:

PARTICIPANTS:

PREPARED BY:

1. How and when did [redacted]?

When [redacted]... Since there was

In [redacted]

2. Was there [redacted]? What was [redacted]? What were [redacted]?

I had no knowledge of the [redacted]

3. Describe [redacted]? What was [redacted]?
Review of the Removal of Maher Arar to Syria by INS in October 2002

[redacted]

4. When and how did [redacted] wanted to confirm that

[redacted]

When [redacted] not recall

at the time said [redacted]

had no further discussions with, nor was involved.

5. To your knowledge, how and when was [redacted]? How [redacted]?

In advance [redacted] did not recall specifically when) because of the [redacted] was

aware [redacted] was

6. Did you participate in [redacted]?

[redacted] had limited participation (see above), but [redacted] could not recall

was consistently [redacted] authorized the INA 235(c) charge (which was

1. As soon as

was ordered

7. To your knowledge, did [redacted]?

[redacted] was not familiar enough with the case to respond.

8. To your knowledge, why was [redacted]? Who [redacted]?

Notes: Arar is offered the opportunity to withdraw his application for admission to which he agrees. Form I-275 is completed and signed. He will be returned to Zurich later that day but would also “be detained for additional interviews with the FBI and Joint Terrorism Task Force.” ICE 155 and ICE 413
Review of the Removal of Maher Arar to Syria by INS in October 2002

INS had the latitude to negate the withdrawal because it was voluntary in nature. In addition, the 235(c) charge rescinded the withdrawal in Arar's case.

Arar had refused to be removed to Syria.

9. When was [redacted]? What was [redacted], could not recall. [we interviewed [redacted]].

10. To your knowledge, did [redacted]?

Notes: On September 27, 2002, Arar was made aware of his right to notify his consulate. He refused the opportunity on the 26th but stated he would like to call on the 27th. JTTF FBI concerned that an outside phone call might jeopardize the case, refused to allow Arar to make the call on the 27th. ICE 155

Notes: [redacted] email ICE 888. Arar elected not to call.

While [redacted] did not recall [redacted] are not entitled to [redacted] [redacted] informed that [redacted] did not specify.

11. When was [redacted] could not recall when.
Memorandum of Record

PURPOSE: Interview/ CBP personnel who had roles in the apprehension and initial detention of Maher Arar in September 2002.

DATE: Thursday, October 6, 2005

LOCATION: 

PARTICIPANTS: 

PREPARED BY: 

1. How and when? 

This was normal for 

conducted: 

only which included a further said that 

further surmised that the 

could not recall which and was not involved with 

[We have a copy which was]
Review of the Removal of Maher Arar to Syria by INS in October 2002

and, as a factors such as
(we have a copy ), including

2. Was there What was Why were said that

said that nothing was unusual did not recall whether

3. Describe said that

said that whether did not recall
but did not appear

said that

4. When and how did could not recall said that due to the

5. Describe was not present for (we have a copy of the

6. To your knowledge how and when was How
Review of the Removal of Maher Arar to Syria by INS in October 2002

[Redacted] brought the [redacted] to the attention of [redacted], who called [redacted] could not recall where.

7. Did you participate in the [redacted]?

None of the interviewed [redacted] participated in [redacted]. However, [redacted] said the [redacted] did not recall specifically).

8. To your knowledge, did [redacted]?

[Redacted] said that [redacted] are normally included in [redacted] did not recall specifically).

9. To your knowledge, why was [redacted]? Who [redacted]?

[Redacted] said that [redacted] remembers that the [redacted], but could not recall also said that

10. [Redacted] What was [redacted]?

None of the interviewed [redacted] could answer.

11. To your knowledge, did [redacted]?

Notes: On September 27, 2002, Arar was made aware of his right to notify his consulate. He refused the opportunity on the 26th but stated he would like to call on the 27th. JTF/FBI, concerned that an outside phone call might jeopardize the case, refused to allow Arar to make the call on the 27th. ICE 155.

Notes: [Redacted] email ICE 888. Arar elected not to call.

12. When was [redacted]?

[Redacted] said probably [redacted] but could not specifically recall.
Doc. #54
Review of the Removal of Maher Arar to Syria by INS in October 2002

Memorandum of Record

PURPOSE: Interview an Asylum Officer Arar in October 2002.

DATE: Wednesday, October 5, 2005, at 2:45 p.m.

LOCATION: CIS Asylum Office

PARTICIPANTS: Asylum Office

DHS OIG

PREPARED BY: l

discussed the general scope of our review and stated that we understood that these events had occurred three years ago.

1. Position at the time (September/October 2002)

2. To your knowledge, ? Why were ?

3. It was not a , which occurred , starting at

Around

3. Was ?

4. Did [redacted] know [redacted] was also present – was the INS [redacted]?

5. What was [redacted]?


7. Did any [redacted] did not directly participate, but [redacted]?

8. What direction did [redacted]?

They were told to [redacted] and were not informed whether [redacted]. They were not informed whether [redacted]. This was a [redacted] said that it was not unusual that they

9. To your knowledge, did [redacted]?

[redacted]

10. Do you believe that [redacted]?

Notes:
was explained, including responded by describing why.

11. Why was [redacted]?

did not know because [redacted].

12. How and when did you [redacted]?

did not know.

13. What did you know about [redacted]?

They were not informed about [redacted].

believed [redacted].

14. Were you aware of [redacted]?

was not informed of [redacted].

15. Why did [redacted]?

frequently, according to [redacted].

They also provided [redacted]. This happens.
Doc. #55
6. **(Redacted)**

7. **(Redacted)**

8. **(Redacted)**

9. NO

10. NO

11. **(Redacted)**

DID NOT KNOW WHAT CAUSE

**235(c)**
Review of the Removal of Maher Arar to Syria by INS in October 2002

CIS/Former INS Asylum Officer Interview

Name: [redacted]
Current Title/Organization: [redacted]
Phone Number: [redacted] Email: [redacted]
Date/Time: 10/5/05 @ 3:15 PM
Location: [redacted]

Questions

1. Position at the time (September/October 2002)

2. To your knowledge, ? When did ? Why were ?

Regarding the

3. Was ?

4. Did ?

What was ?
Review of the Removal of Maher Arar to Syria by INS in October 2002

6. Did [redacted]? [redacted]

7. Did [redacted]? [redacted]

8. What [redacted]? [redacted]

9. To your knowledge, [redacted]? [redacted]

10. Do you believe that [redacted]? [redacted]

Notes: [redacted]
11. Why was [redacted] removed to Syria? [Redacted]

12. How and when did [redacted] remove Maher Arar to Syria? [Redacted]

13. What did you know about Maher Arar? [Redacted]

14. Were you aware of Maher Arar? [Redacted]

Doc. #56
LAW ENFORCEMENT SENSITIVE

Project Number: ISP--2004
Binder C
Tab 21

Review of the Removal of Maher Arar to Syria by INS in October 2002

Memorandum of Record

PURPOSE: Interview the former

DATE: Thursday, October 6, 2005, at 2:00 p.m.

LOCATION:

PARTICIPANTS: 

PREPARED BY:

Initial Apprehension at JFK

first learned of Arar's apprehension at JFK in [redacted], when [redacted] told [redacted] that Arar had been apprehended and detained at JFK.

This happened

also contacted

Visit to MDC

[redacted] said [redacted] never [redacted]

Arar verified that [redacted] met with [redacted]. The meeting lasted 1.5 hours and occurred on the [redacted] Floor at [redacted] during the meeting [redacted].

LAW ENFORCEMENT SENSITIVE
understood that Arar had been served with a Notice to Appear (NTA) and would consequently appear before an immigration judge. Arar wanted to withdraw his application for admission (Form I-275) because he was transiting through JFK en route to Ottawa, Canada.

INS Contacts for Asylum Interview

understood that INS had also contacted

CAT Protection

said that

Removal

determined that Syria was the country for removal because was informed (did not recall how).

...was informed that Arar had been transferred to the INS Service Processing Center at Varick Street, NY, and was then moved to the INS contract detention facility in Elizabeth, NJ.
Other Issues

- could not [redacted] because [redacted]

- [redacted] worked on Arar's case when [redacted] cases involving aliens apprehended in the United States and subsequently removed to a country that was not requested by the alien.

- After his October 2002 removal, [redacted]
LAW ENFORCEMENT SENSITIVE

Project Number: ISP-__2004
Binder C
Tab 22

Review of the Removal of Maher Arar to Syria by INS in October 2002

Memorandum of Record


DATE: Thursday, December 15, 2005, at 10:45 a.m.

LOCATION: [redacted]

ATTENDEES: [redacted], DHS OIG

[redacted], DHS OIG

PREPARED BY: [redacted]

At the time of Arar’s apprehension and removal to Syria (September-October 2002), [redacted] was the [redacted] DAG, Larry Thompson, at the U.S. Department of Justice (DOJ). [redacted] did not know the reason for Mr. Thompson being the Acting Attorney General during the Arar matter.

The DAG is the Chief Operating Officer of DOJ and consequently is in charge of DOJ’s daily operations. [redacted], former [redacted] had [redacted] and was [redacted] when Arar was apprehended. Therefore,

1. When did you first learn about Maher Arar? Who brought him to your attention?

[redacted] did not remember the exact day, [redacted] did not remember:

Initial meetings at the INS Command Center were attended by [redacted], INS General Counsel; Office of Immigration Litigation (DOJ) attorneys;
2. Who made the decision to ...? Why?

3. Who had no knowledge of ...? However, ... said was ...

4. ... did not recall who ... or when ... said that ... There was no ... Attorneys for DOJ's Office of Legal Counsel wanted to ...

5. Communications with Canada

6. Why was ... ?

7. Discussions with INS concerning ... asserted that ...
8. Discussions with INS regarding [redacted] must have [redacted] since [redacted] did not recall the specific [redacted].

9. Discussions with INS concerning [redacted].

The DAG was satisfied with [redacted], but he did not have the means to [redacted]. He did not know [redacted]. However, INS officials were [redacted].

... said that...
LAW ENFORCEMENT SENSITIVE

Project Number: ISP--2004
Binder:C
Tab 22(a)

Review of the Removal of a Canadian Citizen to Syria

Memorandum of Record

PURPOSE:

Interview[REDACTED] during the apprehension and removal of Maher Arar.

DATE:

Tuesday, April 11, 2006, at 2:00 p.m.

LOCATION:

Washington, DC

PARTICIPANTS:

Office of Legal Counsel, Department of Justice
Office of the Deputy Attorney General,
Department of Justice
DHS OIG
DHS OIG

PREPARED BY:

[REDACTED]

[REDACTED] delineated this review’s background, including Arar’s apprehension and subsequent removal, and noted that these events occurred over 3.5 years ago.

At the time of Arar’s apprehension and removal to Syria (September-October 2002), [REDACTED] was [REDACTED] at the U.S. Department of Justice (DOJ), which for the most part entailed [REDACTED], as well as [REDACTED].

[REDACTED] Arar was apprehended at JFK, [REDACTED] Arar was removed to Syria.

1. When did you first learn about Maher Arar? Who brought him to your attention?

[REDACTED] did not know when [REDACTED] first learned about Arar or who brought Arar to attention.

2. Who made the decision to [REDACTED]? Why?

LAW ENFORCEMENT SENSITIVE
was unaware as to who made this decision. also did not believe that

3. Who first suggested raised the issue of recalling discussions with both regarding

According to and, according to designed specifically for. After reviewing "it was obvious that" also noted that

4. Discussions with INS regarding

4a. stated that

4b. How was ? Who made this decision?

4c. Who made the final decision to ? did not know who made this final decision. remembered that since Arar was technically a citizen of Syria (dual, including Canada), INS could choose one of the primary options for country of removal (under U.S. Code, Title 8, Section 1231).

5. Communications with Canada
5a. When did[redacted]?
What[redacted]?

5b. Why was[redacted]?

[redacted] primarily handled by[redacted], then[redacted] for the DAG during Arar’s apprehension and removal. [We interviewed[redacted] on December 15, 2005]

6. Why was[redacted]?

[redacted] stated that[redacted] did not remember any relevant discussions.

7. [redacted] had relevant conversations with[redacted] Arar raised concerns about his potential treatment by Syrian authorities if he were removed to Syria.

8. Discussions with INS regarding[redacted]

8a. Initially? [redacted]?

[redacted] only recalled that relevant discussions were held. [redacted] emphasized that these did not entail[redacted], but were more[redacted]

9. Discussions with INS concerning[redacted]

9a. Concerning the requirement for[redacted] 9b. Source and content of[redacted]

[redacted] could have[redacted]

9d. Was[redacted]?
According to [REDACTED]

10. Who or what was behind [REDACTED]?

[REDACTED] did not recall any specific [REDACTED].

Other Issues

- [REDACTED] recognized [REDACTED] had no interactions with [REDACTED]
- [REDACTED] also had no reason to believe that [REDACTED]
Review of the Removal of Maher Arar to Syria by INS in October 2002

Memorandum of Record

PURPOSE: Interview an agency attorney who participated in U.S. interagency meetings on the apprehension and removal of Maher Arar.

DATE: Wednesday, February 8, 2006, at 10:30 a.m.

LOCATION: [redacted]

ATTENDEES: General Counsel - [redacted], Special Agent - [redacted], DHS OIG - [redacted], DHS OIG - [redacted]

PREPARED BY: [redacted]

The OIG had a pre-interview meeting with [redacted], during which we agreed to avoid discussions of any Top Secret/SCI material and to cover information at the lowest practicable classification level.

At the time of Arar's apprehension and removal to Syria (September-October 2002), [redacted] informed us that [redacted] would have [redacted] to remind [redacted] of details of involvement in Arar's case. However, as a matter of agency policy,

1. Describe your personal role in the Arar case.

[redacted] was called in to [redacted] because it could have involved [redacted] had never [redacted] and did not recall how or when [redacted] was informed of Arar's case.

2. [What, who, when, where, issues discussed]
did not recall which officials participated and when exactly the meetings were held. However, did remember

3. What was

became aware that Arar after

4. How did

unaware Other than that, was

5. What was?

recalled that Arar had dual citizenship with both Canada and Syria. would have been able to easily cross the border into the U.S.

6. What?

did not recall any specific

7. Why did

did not know why or who specifically said that also said that it is not uncommon for . This is done

8. Did the?

recalled that initially determined did not recall which However, after

Therefore,
9. Does [redacted]?

Other Issues

- [redacted] said that [redacted] handwriten notes, which were the informational basis for this memorandum, at the conclusion of this interview. [redacted] determined that the notes did not contain any classified information.
Doc. #60
RECORD OF INTERVIEW

DATE: Wednesday, February 4, 2004 @ 11:00 a.m.

LOCATION: [Redacted]

PARTICIPANTS:

[Redacted]

OIG:

[Redacted], Team Leader

[Redacted], Senior Inspector

PURPOSE: Obtain the views of [Redacted] on the removal of Maher Arar to Syria by the Immigration and Naturalization Service (INS).

INFORMATION OBTAINED:

1) When was [Redacted]? [Redacted] did not know. [Redacted] did not know.

What information [Redacted]? [Redacted] did not know, and [Redacted] did not know.

2) Please describe [Redacted]. [Redacted]: This matter [Redacted] mentioned that [Redacted] would know more about it. [Redacted] recalls that [Redacted]...
This matter was stated that the information for this case was also mentioned that the Arar case

3) Which did not know.

did not know

4) Did the To knowledge, the decision to send Arar to Syria was mentioned that was informed that But, according to did not know.

5) Did? If so, why? During did because they were

6) Did the To knowledge, could not speak for Additional, mentioned that noted that normally,

7) To your knowledge, did? If so, did not know.
did not know.

Was [redacted]? 

[redacted] could not be sure because [redacted] noted that this information would be in the classified file.

[redacted] assumed so but did not [redacted].

8) Inquire about [redacted].

[redacted] was not aware of any.

- How [redacted]? 

[redacted] was not aware of [redacted].

Information to be provided:

- Will provide the statutory citation used (INA) as a basis for removing Arar to Syria.

Written by: [redacted]
Reviewed by: [redacted]
Doc. #61
The Removal of a Canadian Citizen to Syria

MEMORANDUM OF RECORD

Telephone conversation on October 11, 2005, between:

[Redacted]
DHS OIG

and

[Redacted]

Subject: [Redacted]

stated that

said that

said that there are

said that any

Because of this,

said that the

may include a

to ensure

stated that learned of Arar's full story after

referred me to This document outlined
Doc. #62
RECORD OF INTERVIEW

DATE: Thursday, March 25, 2004 @ 3:00 p.m.

LOCATION:

PARTICIPANTS: 

OIG: Team Leader
Inspector

PURPOSE: Obtain information from [redacted] on their role in the removal of Maher Arar to Syria by the Immigration and Naturalization Service (INS).

INFORMATION OBTAINED:

1. When was [redacted]?
To the knowledge, [redacted] and news articles.

2. Please describe the general role [redacted] in this matter.
[redacted] provided materials collected to [redacted]. They were directed to provide "as much information as possible" to including [redacted].
3. What information did

answer was first stated that, speculated that, but did not know when, has "never seen"

4. Which, when, why, and by whom?

stated that, but was not certain which could answer that question.

5. When was during his period of detention (September 26 to October 8, 2002)?

In accordance with, but did not know when, clarified that the onus is on

6. Did the
   a. Did ? If so, ?
   b. ?

has never seen any recommended we discuss them with

7. Did ? How (e.g., did it )?

To reiterate, has never seen any, would have been in charge. referred us to the. Note: We interviewed
8. To your knowledge, did [redacted] respond? If so, what was your response?

[Redacted] was unaware of [redacted] has not [redacted] and has no idea or record of any such information.

9. In your opinion, was [redacted] [redacted]? If so, how?

[Redacted] did not have the knowledge to draw any conclusions. [Redacted] has no records related to [redacted] and suggests [redacted] be checked.

10. Why was [redacted] [redacted]?

[Redacted] would not answer the question.

11. Inquire about [redacted] [redacted]?

[Redacted] could not answer the question.

   a. [Redacted] [redacted]?

[Redacted] has "no idea" as to specific [redacted] (according to [redacted]).

12. What [redacted] the following: who [redacted]?

   a. Who [redacted]?
   b. What [redacted]?

[Redacted] is more informed on this issue. Contacts given were: [redacted] recommended we call [redacted] and general number [redacted] to be referred to them.

13. To your knowledge, what is the [redacted]?

[Redacted] had no additional information to offer. [Redacted] recommended we contact [redacted] that [redacted].

Written by: [redacted]
Date: March 26, 2004
Doc. #63
Review of the Removal of Maher Arar to Syria by INS in October 2002

Memorandum of Record (MOR)

PURPOSE: Summary of the conference call held with two counsels with the Lead Counsel Counsel in Relation to Maher Arar.

DATE: Wednesday, October 20, 2004 @ 2:00 p.m.

ATTENDEES: Counsel DHS OIG DHS OIG DHS OIG

CONTACT:

PREPARED BY:

This conference call was held pursuant to a contact from on September 20, 2004. At the beginning of the call, stipulated, and agreed, that the entire conversation was unofficial and off the record.

DHS OIG Review

reviewed the two objectives of DHS OIG's review of the removal of Maher Arar to Syria. We conducted interviews with various lower-level DHS officials but are waiting for legal permission to interview higher-level officials, some of whom left the Government. also reviewed the formation of the Department of Homeland Security (DHS) and the transfer of the immigration functions of the U.S. Government from the Department of Justice (DOJ). As such, DHS OIG only has authority over DHS officials.

gave that we requested a personal, in-person interview with Maher Arar.

said that

said that is specifically authorized to detention in
This Monday will begin, Subsequently, will examine necessary because

Responding to a question from [redacted] said that to [redacted] knowledge, [redacted] wanted to review documents on U.S. immigration procedures. [redacted] does not have access to [redacted].

**Arar's U.S. Detention**

Arar said that he was threatened with removal to Syria if he did not cooperate with U.S. authorities. He said U.S. agents tried to force him to sign a document consenting to removal to Syria.

Arar was transferred to the MDC on approximately September 28, 2004. Apparently, [redacted] assumed that Arar would be removed to Zurich (his point of embarkation to New York/JFK) or Canada. Arar was removed to Syria, after an immigration hearing at MDC; [redacted].

**Follow Up**

- [redacted] will forward to us, via regular mail, [redacted].
- [redacted] will review material documents from.
• A question to ask TNS is: did the fact that the point was...

• Obtain:...
Doc. #64
Review of the Removal of Maher Arar to Syria by INS in October 2002

Memorandum of Record (MOR)

PURPOSE: Summarization of the meeting with Immigration and Customs Enforcement (ICE) officials concerning Extraordinary Renditions

DATE: Wednesday, September 22, 2004 @ 1:00 p.m.

ATTENDEES: ICE, DRO, ICE OI/NSU, ICE/EOI, ICE OPLA, DHS OIG

LOCATION: CAB, 425 1 Street, N.W., 3rd Floor, Washington DC

PREPARED BY: 

This meeting was held in response to a memorandum dated August 10, 2004, from Clark Kent Ervin (IG) to Michel Garcia (Assistant Secretary, ICE) that requested additional information concerning The OIG initiated a review of the Arar case in January 2004.

Deportable Alien Control System (DACS)

DACS is the database that contains records of all aliens charged with immigration violations and removed from the United States. showed that The status of ; the status of

A DACS summary sheet...
Interestingly, [redacted] opined that it might be agreed to provide the OIG with

opined that it was possible that could have been could have been

(OIG Note: If this did happen, there would be

should have included

necessarily have been a However, must be known.)

stated that

also stated that

In a side bar conversation with [redacted] agreed to provide (via facsimile) the OIG with a copy of the Form I-148 that directed the removal of Arar and a copy of the
Deportation of Detainee to Syria

CAB - Room 3240  1:00 pm   9-22-04

Name    Office    Tel#

ICE/OFFICE
DRO
DRO
ICE/OI
ICE/PIA
DHS/OIG
DHS/ICE/PI/IN"