



U.S. Department of Justice

Office of Information Policy

Telephone: (202) 514-3642

Washington, D.C. 20530

MAY 29 2012

Mr. Amrit Singh
Open Society of Justice Initiative
400 W. 59th Street
New York, NY 10019

Re: AG/11-00273 (F)
DAG/11-00274 (F)
CLM:VRB:NCS

Dear Mr. Singh

While processing your Freedom of Information Act (FOIA) request dated September 13, 2010 for post- September 11, 2001 records pertaining to extra-judicial transfers, the Department of Homeland Security (DHS) Office of Inspector General located fifty-two pages of material, which it referred to this Office for processing and direct response to you. The DHS tracking number associated with this request is 2010-187. For your information, this material was received in this Office on December 17, 2010. This response is made on behalf of the Offices of the Attorney General and Deputy Attorney General.

Our review of the material referred by DHS is partially completed, and I have determined that one document, totaling three pages, is appropriate for release without excision. A copy is enclosed.

This completes our work on behalf of the Office of the Attorney General. We are continuing to process the remaining forty-nine pages of material referred to us for processing on behalf of the Office of the Deputy Attorney General. We will write to you again once disclosure determinations are made.

If you are not satisfied with my interim response on behalf of the Office of the Attorney General, you may administratively appeal by writing to the Director, Office of Information Policy, United States Department of Justice, Suite 11050, 1425 New York Avenue, NW, Washington, DC 20530-0001. Your appeal must be received within sixty days from the date of this letter. Both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal."

Sincerely,

Carmen L. Mallon
Chief of Staff

Enclosure

Doc #131

758-2004
Binder B(2)
Tab 3

Ref.: TG: AMR 51/86/03

The Honorable John Ashcroft
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530
USA

14 November 2003

Dear Attorney General,

I am writing regarding Maher Arar, a Canadian citizen of Syrian origin who was detained at JFK airport, New York, on 26 September 2002 while in transit to Canada and travelling on a Canadian passport. After 13 days in US custody, where he was reportedly questioned about alleged links with al-Qa'ida, he was deported to Syria via Jordan. Mr Arar was recently released and returned to Canada after being detained in Syria for a year without charge.

Amnesty International wrote to the US government in October 2002 to express concern that Mr Arar was apparently deported from the USA without being represented at any hearing and without his family, lawyer or the Canadian consulate being informed. We also communicated to the US and Canadian governments our concern for Mr Arar's safety in Syria, given Syria's record of human rights abuses, including torture.

Amnesty International representatives have conducted several in-depth interviews with Mr Arar since his release. He has also made a number of public statements. We are gravely concerned by accounts he has given of being tortured in Syria and held for months in cruel, inhuman and degrading conditions. He was also allegedly beaten in Jordan. His testimony, together with other credible reports of the treatment of prisoners in Syria and Jordan, reinforces our concern that the US government was in breach of its obligations under international law in deporting Mr Arar directly or indirectly to Syria. We are urging your government to instigate a full, impartial inquiry into the circumstances of his deportation from the USA, with the findings made public. Such an inquiry should also examine other alleged breaches of his fundamental rights while in custody in the USA. Our concerns include the following:

Mr Arar was detained on 26 September 2002 and held for seven days before being allowed to contact his family or a lawyer. He was also reportedly not given prompt access to the Canadian consulate as required under the Vienna Convention on Consular Relations. He reportedly suffered sleep deprivation and was not fed for 28 hours during two days of intensive questioning at the airport. His repeated requests for a lawyer and phone call were denied until 2 October when he was permitted a two-minute phone call with his mother-in-law in Ottawa. He told her he was frightened of being deported to Syria, a fear which Amnesty International has confirmed he repeated during his first and only meeting with his lawyer on 5 October. Mr Arar alleges that he was asked several times while in detention to sign a document agreeing to depart "voluntarily" to Syria but refused citing fears that he would be tortured there.

Mr Arar alleges that he was woken up at around 3am on 8 October 2002 and was read part of a document stating that, based on classified information, the INS Director had taken the decision to deport him to Syria. He protested, saying he would be tortured there, but this was ignored. He states he was placed in shackles and driven by people dressed in military clothes to an airport where he was put on a private plane with three or four people inside, and no other detainees. He alleges that on the

first leg of the flight, to Washington, DC, he overheard members of the team accompanying him making phone calls, saying that Syria was refusing to take him directly and, after further phone calls, heard that Jordan had agreed to take him. Another team accompanied him on the flight to Jordan, via Rome. It is unclear from the accounts given who these individuals were but Mr Arar states that they spoke in English. While the leader of the team – a man called Khoury – said his grandfather was Syrian, he appeared to know very little Arabic.

He reports that, after he arrived in Jordan on 9 October, he was severely beaten while blindfolded and shackled in the back of a van. Later that same day, after being taken to a building for questioning, he was put into a car where he was beaten again, and driven to Syria.

In Syria he was taken to the "Far Falestin", the Palestine Branch of Syrian military intelligence, known to Amnesty International for the routine torture of political prisoners. He alleges that he was severely beaten with shredded electrical cable while being interrogated over a six day period and was threatened with electric shocks and the "metal chair"—a torture device which stretches the spine and is documented in Amnesty International reports. In between these interrogation sessions he was left in a room where he could hear the screams of other prisoners being beaten and tortured. Eventually, he describes that he was prepared to sign anything to bring the torture to an end and that he signed a false confession, which he was not allowed to read. In that document, among other things, he falsely confessed to having been to a training camp in Afghanistan. He reports that he was held for more than 10 months alone in a tiny, basement cell which he called "the grave", which had no natural or artificial light source. A small grate in the ceiling opened up into a hallway above, through which cats and rats often urinated into his cell. There was no furniture in the cell, only two blankets on the floor. He had no exposure to natural light at all for the first six months.

The Canadian consulate visited him seven times while he was in Syrian custody, but each of these visits took place in the presence of Mr Arar's interrogator and other Syrian officials. He reports he was warned by Syrian officials not to say that he was beaten. However, on the seventh visit in August 2003 he broke down, described his conditions of detention, and said yes when asked if he had been tortured. On 5 October he was taken to the Canadian embassy and put on a plane to Canada where he has returned home without any charges against him.

The US government's actions in deporting Mr Arar appear to be in gross violation of its obligations under international law as well as its own stated policy. Article 3 of the Convention against Torture prohibits the transfer of anyone to another state where "there are substantial grounds for believing that he would be in danger of being subjected to torture". In a letter to Senator Patrick Leahy on 25 June 2003, Pentagon General Counsel William Haynes wrote that government policy was to "comply with all of its legal obligations in its treatment of detainees, and in particular with legal obligations prohibiting torture". He wrote that the USA would not transfer anyone to a country where they may face torture and, if necessary, would seek assurances from the receiving country that torture would not be used against the transferred individual. The entry on Syria in the US State Department's latest human rights report cites "credible evidence that security forces continue to use torture". Syria was cited by President Bush in a major address on 6 November 2003 as a country with a "legacy of torture". As stated above, Mr Arar reportedly told US officials of his own concern that he would be subjected to such treatment if sent to Syria and refused to depart voluntarily on this ground.

The accounts given suggest that, not only did the US government fail to seek assurances that Mr Arar would not be tortured but may have actively engineered his transfer to Syria via Jordan, bypassing certain legal guarantees, including his right to effective consular assistance and to representation in a fair proceeding. We understand that the Canadian government has strongly protested the US government's handling of this case. There are also troubling questions that remain unanswered as to what role, if any, Canadian law enforcement or security agencies may have played in this case. Amnesty International has called on the Canadian government to launch a public, independent inquiry that would examine that concern. There is now considerable public pressure for such an inquiry to be established. If an inquiry is convened in Canada, Amnesty International urges your government to cooperate fully in the proceedings, which will most certainly need to consider communications and information sharing between the Canadian and US government.

In view of the very disturbing concerns outlined above, we urge that the United States instigate a full, impartial investigation into its treatment of Mr Arar and the role of the US government or its agents in his removal to Jordan and Syria. The findings of such an inquiry should be made public and any officials found responsible for violating his rights held accountable.

Despite US stated policy not to hand over suspects to countries where they face torture, there have been persistent reports and rumours of detainees in US custody being secretly "rendered" to countries with a record of abusing suspects in order to extract information. Such countries are alleged to include Jordan, Morocco and Egypt. A senior intelligence official, speaking anonymously, was quoted in the Washington Post on 5 November 2003 as stating that there have been "a lot of rendition activities" since the attacks of 11 September 2001. Officials have been reported in earlier press articles to have openly stated that the USA may deliberately send some detainees to countries where they would be subjected to abuse during interrogation.

Amnesty International again calls upon the US government to make it categorically clear that the USA will in all cases abide by its legal obligation not to send individuals to countries where they are at risk of torture or other serious human rights abuses. Any erosion of such a fundamental principle under international law would tarnish the United States' reputation and undermine respect for human rights everywhere.

Yours sincerely,

For Irene Khan
Secretary General

cc Colin Powell, Secretary of State
Tom Ridge, Director, Department of Homeland Security
Office of the Inspector General, U.S. Department of Justice



U.S. Department of Justice
Office of Information Policy
Suite 11050
1425 New York Avenue, NW
Washington, DC 20530-0001

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OCT 31 2012

Ms. Amrit Singh
Open Society of Justice Initiative
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In our letter to you dated May 29, 2012, we provided you with an interim response on three pages and advised you that we were continuing to processing the remaining forty-nine pages of material referred to us for processing on behalf of the Office of the Deputy Attorney General. Our review is now complete, and I have determined that this material should be withheld in full pursuant to Exemptions 1 and 5 of the FOIA, 5 U.S.C. § 552(b)(1), (b)(5). Exemption 1 pertains to information that is properly classified in the interest of national security pursuant to Executive Order 13526. Exemption 5 pertains to certain inter- and intra-agency communications protected by the deliberative and attorney work-product privileges. For your information, the withheld material consists of preparatory information compiled in anticipation for an interview with DHS' Office of Inspector General. None of the material being withheld is appropriate for discretionary disclosure.

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. *See* 5 U.S.C. 552(c) (2006 & Supp. IV 2010). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

If you are not satisfied with my response to this request, you may administratively appeal by writing to the Director, Office of Information Policy, United States Department of Justice, Suite 11050, 1425 New York Avenue, NW, Washington, DC 20530-0001, or you may submit an appeal through this Office's eFOIA portal at <http://www.justice.gov/oip/efoia>

[2]

[portal.html](#). Your appeal must be received within sixty days from the date of this letter. Both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal."

Sincerely,

A handwritten signature in black ink, appearing to read "Vanessa R. Brinkmann". The signature is stylized with a large initial "V" and a long horizontal stroke.

Vanessa R. Brinkmann
Counsel, Initial Request Staff

Doc #132
Withheld in Full