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Chair

Mr. Garry Breitkreuz

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•(0905)

[English]

The Chair (Mr. Garry Breitkreuz (Yorkton—Melville, CPC)): Order, please. I'd like to call this meeting to order.

This is meeting number 23. We are studying the events related to the Maher Arar situation.

We would like to welcome as our witness this morning the Honourable Anne McLellan, former Minister of Public Safety. Welcome to our committee, and we look forward to the testimony you have for us.

Hon. Anne McLellan (Former Minister of Public Safety): Thank you.

The Chair: The usual practice, as you probably are aware—things haven't changed much since you've been here—is we usually allow you whatever time you may require—10 minutes, 15 minutes, whatever—to make a statement and then we will open it up to the official opposition, which at this time is the Liberal Party of Canada.

Anyway, welcome, and you may begin whenever you are ready.

Hon. Anne McLellan: Thank you very much, Mr. Chair. It is a pleasure to be back on Parliament Hill.

[Translation]

Thank you for inviting me here today. I want to congratulate you and thank you for following up on the O'Connor report.

[English]

I asked Mr. Justice O'Connor to take up the important task of getting to the bottom of what happened to Maher Arar, and why it happened. His exhaustive investigation has served an important public purpose, but most importantly has provided the foundation on which Maher Arar and his family can move forward. It is clear that what happened to Maher Arar should not have happened, and that mistakes were made. While it was not appropriate for me to meet with Mr. Arar personally during my time as minister, I do want to take the opportunity now to express how sorry I am for everything that has happened to him and his family. It is now up to this government to decide how to implement Mr. Justice O'Connor's recommendations and to compensate Mr. Arar.

My involvement with the Arar case began when I became Minister of Public Safety and Emergency Preparedness on December 13, 2003. Mr. Arar had been returned to Canada from Syria in September 2003. Prime Minister Martin asked me to get to the bottom of what had happened to Mr. Arar. In addition, he asked me to look at whether additional oversight was required for the RCMP

in relation to its national security activities. In fact, that request was in the public documents issued at the time Prime Minister Martin became Prime Minister and the new government was installed on December 13, 2003.

Prime Minister Martin and Foreign Affairs Minister Bill Graham were both very concerned about the conduct of the United States in relation to Mr. Arar, obviously that conduct being the deportation of a dual citizen to Syria rather than his expected return to Canada. To try to prevent this from happening again, discussions began with Mr. Graham's counterpart, Colin Powell, to enter into an agreement to ensure that no Canadian holding dual citizenship would be deported to a third country without consultations at the highest levels with DFAIT and the State Department. That agreement was adopted by Prime Minister Martin and President Bush on January 13, 2004, in Monterey and hence its name, the Monterey Protocol. I believe the original agreement was confirmed recently by Minister Peter MacKay with his U.S. counterpart, Secretary of State Rice.

During the early part of January 2004, my department and I considered the best way to fulfill the Prime Minister's request that we get to the bottom of what happened to Mr. Arar. We considered the possibility of the Commission for Public Complaints undertaking an investigation. Since there seemed to be some concern as to the scope of the public complaints commission's jurisdiction, we finally decided that a public inquiry chaired by a judge or former judge would be the most transparent and independent process. On January 28, 2004, I announced our government's decision to hold a public inquiry into the actions of Canadian officials as it related to the deportation of Mr. Arar from the U.S. to Syria. I also announced that Mr. Justice Dennis O'Connor of the Ontario Court of Appeal had agreed to serve as a single commissioner. An order in council was issued on February 5, 2004, officially appointing Mr. Justice O'Connor and setting out the terms of reference.

From that point on, it would have been inappropriate for anyone in the government to comment or speculate upon what did or did not happen to Mr. Arar or the reasons therefor. I have read the testimony of my former colleague, Wayne Easter, as well as that of Jim Judd, now director of CSIS, and that of Commissioner Zaccardelli. I have also read Mr. Justice O'Connor's factual findings and his recommendations.

Mr. Justice O'Connor reminds us all of the importance of oversight of the actions of government agencies involved in intelligence gathering and law enforcement. As I mentioned earlier, Prime Minister Martin had called for a review of whether there was sufficient and appropriate oversight of the RCMP in the exercise of its national security role. I know we all look forward to Mr. Justice O'Connor's second report, in which he will provide us with guidance in relation to additional appropriate oversight mechanisms.

● (0910)

In conclusion, let me say, Mr. Chair and members of the committee, that the O'Connor report provides insight not only into what can and did happen to one individual, but I think if Mr. O'Connor's report is taken up—and I know that you're taking it up and that it is the expressed intention of the government to take up his recommendations—it will help us, again, understand the difficulties and the challenges involved in striking the right balance. Obviously the paradigm foundational responsibility of government is to ensure the collective security of its people, but in doing so we must always be respectful and mindful of getting the balance right. I think Mr. Justice O'Connor's report goes some significant distance to providing us guidance in terms of what we need to remember about what we need to inform ourselves to ensure that we're always trying to get the balance right.

With that, Mr. Chair, I will conclude my remarks and look forward to questions and comments from the committee.

Thank you.

The Chair: Thank you, Ms. McLellan. I appreciate that.

As is the normal practice here, we'll begin with the Liberal Party of Canada. Mr. Mark Holland, please.

Mr. Mark Holland (Ajax—Pickering, Lib.): Thank you, Mr. Chair.

Ms. McLellan, thank you for appearing today. Thank you for your words and for establishing the Arar inquiry.

I'd like to start with some questions on the time that you became the Minister of Public Safety and Emergency Preparedness. There would have obviously been, at that time, briefings around the Arar affair. Can you tell us the nature of those briefings, whether or not Commissioner Zaccardelli was included in those, and who might have participated as well from the RCMP in the briefings that took place?

Hon. Anne McLellan: You're quite right that, obviously, I was the new minister as of December 13, and we had created a new department as well. So the briefings were comprehensive, as they are when any new minister takes over a ministry, and in my case we were in the process of establishing a new department and trying to bring some cohesiveness to the various parts of the department from the very beginning.

I was briefed by Commissioner Zaccardelli in relation to key issues and challenges confronting the force at the time. I was also briefed by the then head of CSIS, Ward Elcock, in relation to the challenges and activities of CSIS. Certainly keep in mind the time. Mr. Arar had returned to Canada in September 2004. He, upon his return, through the months of October and November, had been

calling for a public inquiry. Mr. Martin became leader of the Liberal Party of Canada in November 2003. He was being briefed and was working through the necessary transition in the lead-up to becoming Prime Minister of Canada. So during the months of October and November there was substantial discussion taking place outside Parliament in relation to Mr. Arar and his situation. Therefore, clearly when Mr. Elcock and Commissioner Zaccardelli came to brief me, the Arar situation was one of many cases that we discussed.

● (0915)

Mr. Mark Holland: Commissioner Zaccardelli has testified before this committee that as soon as he found out that there was false information and learned of Mr. Arar's innocence he informed the government, and we heard from Mr. Easter that he had never had any such interaction with Mr. Zaccardelli. Can you tell us, either at the time of those briefings or subsequently, did the Commissioner or the RCMP tell you that they were ruling out Maher Arar as a terrorist or as an Islamic extremist? At any time, did they admit that there had been false information provided to the United States that may have led to the arrest of Maher Arar?

Hon. Anne McLellan: The first time I became aware that false information had been provided to the United States was when I read the report of Mr. Justice O'Connor. I will say that to the best of my knowledge—and I have thought about this, because I read, obviously, Mr. Justice O'Connor's report, as well as the comments before this committee by Commissioner Zaccardelli and others—in my presence, neither Commissioner Zaccardelli nor anyone else, either from the RCMP or CSIS, ever referred to Mr. Arar as an Islamic extremist. That was an expression that was never used in relation to Mr. Arar in my presence—ever.

Mr. Mark Holland: In your view, in light of what's happened, and now seeing Justice O'Connor's report, did the RCMP, in your opinion, withhold information from you at the time, when there were leaks and much speculation, including questions during question period from the opposition parties asking why the government wasn't doing more to go after Mr. Arar or why we were being soft on this individual? Looking back on it now, when those questions were being posed by the then opposition, and when the leaks were occurring, do you feel that the RCMP was withholding information from you that would have been helpful at that time, at the time that you were minister?

Hon. Anne McLellan: I can't say that I believe the RCMP withheld information from me. I think, obviously, from Mr. Justice O'Connor's report, that it is clear, as I said in my statement, that mistakes were made and that inaccurate information was provided to the United States of America that in some way, in all likelihood, impacted on the treatment of Mr. Arar by the United States of America.

I have no evidence whatsoever that the RCMP ever withheld any information from me.

Mr. Mark Holland: By the same token, they didn't provide you with any information to suggest that Maher Arar either was or was not a terrorist. As these leaks were occurring, they were not providing you with information the other way.

Hon. Anne McLellan: I think it's fair to say that the only expression I recall ever being used in relation to Maher Arar by anyone, but in particular by the Royal Canadian Mounted Police, was the fact that at least at some point he was a person of interest. I think it's fair to say that that was the expression used by the force—I shouldn't say the force; I should say Commissioner Zaccardelli, in relation to any briefing he may have provided me.

Mr. Mark Holland: There was an article on October 4, 2006, in the *Toronto Star*. In that article you said that Maher Arar was obviously a very big issue for the commissioner. I'm assuming that you mean Commissioner Zaccardelli. Could you expand upon what you meant by that? In what way was this a very big issue for the commissioner? Was he personally directing this file, in your estimation? What did you mean by that?

The Chair: That will probably have to be your final question.

Hon. Anne McLellan: What I meant by that was.... Keep in mind that Prime Minister Martin had given me the specific mandate on December 13 to get to the bottom of the Maher Arar case. Prime Minister Martin was also calling for me to review whether additional oversight of the force was required in relation to their national security activities. So I think it's fair to say that the coming together of those two things was very much on the mind of Commissioner Zaccardelli in terms of what mechanism might be put in place to get to the bottom of what happened. Clearly, the mechanism would be one of interest not only to the commissioner and the RCMP but to CSIS and other agencies within government.

I would say that in my mind there was no question that the Arar situation, what happened to Mr. Arar, why it happened, and how we were going to get to the bottom of that was very much front and centre for Commissioner Zaccardelli. My sense of that was that the commissioner quite rightfully was concerned, as we would expect someone in his position to be, about what happened. He was concerned about the things Mr. Arar was saying upon his return in relation to what had happened. I would hope that anyone responsible and the head of a force like the RCMP would be concerned and would want to know what happened and would make sure that corrective measures were taken, so that if mistakes were made, they weren't made again.

• (0920)

The Chair: Thank you very much.

We'll now go to the Bloc Québécois. Mr. Ménard, you have seven minutes, please.

[Translation]

Mr. Serge Ménard (Marc-Aurèle-Fortin, BQ): Thank you, Madam, for assisting our committee.

When you were appointed Minister of Public Security, and hence, the Minister responsible for the RCMP and CSIS, Mr. Arar had already returned to Canada,—

[English]

Hon. Anne McLellan: Yes.

[Translation]

Mr. Serge Ménard: —so that any unfair treatment he may have received was at least in the past. You wanted to get to the bottom of the incident and took steps to do just that.

Prior to assuming this portfolio, you were in Cabinet. I believe Mr. Arar's case had already made the headlines well before Mr. Martin's new government took office. During this period, while in Cabinet, was it your impression that Mr. Arar was connected in some way to a terrorist organization, or were you convinced that the treatment he received was completely unjustified?

[English]

Hon. Anne McLellan: As I said in relation to Mr. Holland's question, I think it would be fair to say that at least at various points during that year, from the time he was detained in the United States until his return in September 2004, the expression I would use is that the impression was left that he was a person of interest. Nobody ever said anything else to me, either before I became Minister of Public Safety.... For example, around the cabinet table in discussions nobody ever used the language of "Islamist extremist", but I do think it's fair to say that the impression was he was a person of interest.

[Translation]

Mr. Serge Ménard: Who falls into the category of "person of interest"? Does the expression also apply to completely innocent people who may unwittingly have been in contact with terrorists as well as to persons with likely, if not proven, ties to terrorism?

[English]

Hon. Anne McLellan: It could. I think "person of interest" is not a scientific term, it is a term of art—and you are well familiar with it. So a person of interest may very well be completely innocent. I think that's what Mr. Justice O'Connor concluded in relation to Mr. Arar. It may be, as in Mr. Arar's case, through association with those who are being investigated by whoever it might be, the Royal Canadian Mounted Police, local police, whatever. As you are aware, a person of interest can bring within it a fairly wide group of people, but person of interest does not.... As Mr. Justice O'Connor has indicated, we need to be very careful around the language we use, because you can be a person of interest because of an association and be completely innocent.

[Translation]

Mr. Serge Ménard: When speaking out on the Arar case, did Commissioner Zaccardelli tell you that, as far as being a person of interest was concerned, Mr. Arar was totally innocent?

• (0925)

[English]

Hon. Anne McLellan: This would come from the briefings I received when I became Minister of Public Safety. I think it is fair to say that the impression that was left with me was that Mr. Arar had been a person of interest. I cannot say that as of December 2003, when I became minister, that Commissioner Zaccardelli continued to believe he was a person of interest. I have no reason to believe that the commissioner in December 2003 or January 2004 continued to believe that Mr. Arar was a person of interest.

I think it's fair to say that in the briefings with him and others, I had the distinct impression that there had been times when Mr. Arar had been viewed as a person of interest. Obviously, Mr. Justice O'Connor confirms in his report that this was exactly what Mr. Arar was, for a significant period of time.

[Translation]

Mr. Serge Ménard: One thing appears certain: Commissioner Zaccardelli never mentioned to you that Mr. Arar may have been deported to Syria on the basis of inaccurate information conveyed by the RCMP to US authorities.

[English]

Hon. Anne McLellan: No, never. As I mentioned in relation to Mr. Holland's question, the first time that I heard there had been incorrect information provided to the United States of America authorities in the United States was when I read Mr. Justice O'Connor's report.

[Translation]

Mr. Serge Ménard: Commissioner Zaccardelli therefore gave you the impression that the Americans must have had their own good reasons, irrespective of the RCMP's position, for deporting Mr. Arar to Syria.

[English]

Hon. Anne McLellan: I cannot say that we ever specifically discussed that. If you're asking me if I believed authorities in the United States must have had their own information and/or reasons for deporting Mr. Arar to Syria, yes. It's fair to say that in my own mind I presumed that the most persuasive evidence that led to Mr. Arar's deportation was what the Americans themselves had, not anything provided by Canadians.

[Translation]

Mr. Serge Ménard: Given the need for many democratic societies to band together in the fight against terrorism, do you find it acceptable that the United States, if it did have its own reasons for suspecting a Canadian citizen of having ties to terrorism, failed to share these reasons with the RCMP?

[English]

The Chair: That will have to be your final question, Mr. Ménard.

Hon. Anne McLellan: While I know it is somewhat murky—and Mr. Judd and Mr. Elcock both testified to this, or at least Mr. Judd did—one would like to think that if the United States had information in their possession in relation to a Canadian citizen, albeit a dual citizen, and that information led them to believe he was involved in some kind of terrorist activity, was associated with known terrorists, and so on, they would convey that information to their counterparts in Canada. To me, that would be a reasonable expectation, but it is my understanding, from testimony, that this did not happen.

The Chair: All right. Thank you very much.

We will now move to the NDP's Mr. Comartin, for seven minutes, please.

Mr. Joe Comartin (Windsor—Tecumseh, NDP): Thank you, Mr. Chair.

Thank you, Ms. McLellan, for being here. Let me just go quickly, because I don't have a lot of time.

Throughout the entire time that you were minister responsible for this file, you at no time were ever told that any of our intelligence agencies, including the RCMP, had ever used terms describing Mr. Arar as being anything but a person of interest. Is that correct?

● (0930)

Hon. Anne McLellan: That's right, and never were expressions such as "Islamic extremist" ever used in my presence.

Mr. Joe Comartin: Or "terrorist" or the one that was floating around in those leaks? There was also one about some kind of "fanatic Islamic" or something. Those were the three terms that we heard, but you never heard any of those. You never got a briefing that indicated to you that he was anything in those categories.

Hon. Anne McLellan: No, I did not.

Mr. Joe Comartin: Here's the difficulty that I have, and I think a lot of Canadian citizens do too, including even those who have maybe just marginally followed this file over the four or five years since Mr. Arar was deported.

Periodically two things happen. We heard veiled comments from Americans—Mr. Ashcroft, Mr. Cellucci, I'm quite sure, and I think from Mr. Ridge. They would never, of course, be forthright enough to say "This is what we got from the Canadians", but there were veiled comments. "You knew"—"you" meaning Canada, because I don't mean you personally—"and your agencies knew why we used rendition against him to send him to Syria." That was in the media repeatedly. I can recall particularly when Mr. Cellucci said that, because I've had a discussion with him about it. I'm quite sure Mr. Ashcroft did as well. So we had that.

And then we had the media leaks in which terms like "Islamic extremist" and "terrorist" were floated, describing Mr. Arar. Some of those were before you became minister and some were after, but as the minister during that period of time, did you not question whether that description of Mr. Arar, those allegations, and those accusations levelled at Mr. Arar, were coming from our intelligence services? Did you ever ask the RCMP or any of our intelligence services whether they were coming from us? And I have to say, Ms. McLellan, if you didn't, why didn't you?

Hon. Anne McLellan: Your question has a lot of different components to it, and I may not hit them all, so remind me.

I was very concerned about the leaks. There were a number of investigations going on in relation to who was leaking what to whom. Leaks had been an ongoing concern for me, as some of you know, in a number of the portfolios that I held, so leaks were an issue in terms of what was being leaked and by whom. But as you know, we still apparently don't know anything about that, although there may still be some investigation going on.

Mr. Joe Comartin: Didn't that prompt you to ask the RCMP if that was information that we ever divulged? It just seems to be logical—

Hon. Anne McLellan: To the Americans?

Mr. Joe Comartin: Yes, to the Americans.

Hon. Anne McLellan: I knew that the RCMP had exchanged information with the United States. We have in fact an ongoing information-sharing relationship, and Mr. Justice O'Connor indicates how important that relationship is for everyone's shared well-being.

There was no surprise, for me, that the RCMP and/or CSIS would share information with one of our key allies.

Mr. Joe Comartin: It's what they shared, Ms. McLellan; that's the point. You've been told throughout that "person of interest" is what we shared with them.

Hon. Anne McLellan: That's what I was briefed.

Mr. Joe Comartin: When the leaks were occurring, did you not say: wait a minute, is it possible that we did this? It's an obvious question that I would have asked the head of the RCMP and Mr. Judd and Mr. Elcock—all of them.

Hon. Anne McLellan: As I say, I was concerned about the leaks and whether they thought these leaks were coming from their organizations, absolutely.

They, I think it's fair to say, probably in a general sense, as much as they could, reassured me that they did not believe the leaks were coming from their organizations.

Mr. Joe Comartin: What about the substance of the leaks? What about whether the leaks were in fact substantial? Did you question them again at that period of time? Or did Commissioner Zaccardelli offer to say, in that period of time, this is not information coming from us because this is not true?

• (0935)

Hon. Anne McLellan: No. That was not said to me.

Mr. Joe Comartin: You don't think that's strange, in retrospect?

Hon. Anne McLellan: Keep in mind that by the time I became minister, my whole focus was getting to the bottom of this. The kind of question you just asked would be part of getting to the bottom of this. And we knew, because of so many things that had transpired, that getting to the bottom of this was not going to happen simply by me or the government or PCO asking questions of various agencies. It was only going to happen by some kind of independent review.

So my focus was on the fact that we had a whole bunch of questions here that we didn't know the answers to. As every day went by, it was getting murkier and murkier, in part because of the leaks. The only way we were going to get to the bottom of this was to have some kind of independent mechanism.

Mr. Joe Comartin: Okay, but Mr. Cellucci in public would say—veiled, always—that Canada knows this information, knows why we used rendition against Mr. Arar. Would you not at that point go back to Commissioner—

Hon. Anne McLellan: As I remember from the discussions generally at the time when those comments were made, I think the Minister of Foreign Affairs, who I believe was Bill Graham at the time, reacted quite strongly to Mr. Cellucci's comments. My sense was that the minister rejected what was said by Mr. Cellucci if he meant that we were somehow complicitous in Mr. Arar's deportation. I think Mr. Graham generally tried to clarify, for himself and for the government and for others, that, no, we were not involved in Mr. Arar's deportation.

The Chair: Final question, Mr. Comartin, briefly.

Mr. Joe Comartin: This was based on the information he was getting from the RCMP, which in fact was not accurate. They had in fact given the customs people in the United States, in that customs report, allegations that Mr. Arar was more than a person of interest.

Hon. Anne McLellan: I think it's quite clear from Mr. Justice O'Connor's report that incorrect information was provided by the

RCMP to authorities in the United States. I did not know that at the time, and I would have had no reason to ask. I would have expected that the RCMP and any government agency would follow their normal protocols and normal methods of procedure. Only when I read Mr. Justice O'Connor's report did it become apparent to me that in fact the normal procedures around the exchange of information and the imposition of caveats had not been followed.

So I would have had no reason to ask that at the time. The rules are there. The guidelines are there. One presumes—

Mr. Joe Comartin: You had the media leaks—

The Chair: Your time is now up, Mr. Comartin.

Mr. Joe Comartin: —and you had those statements made by the other ministers from the other country. Would that not have prompted you to ask the question at that point?

The Chair: Mr. Comartin, we'll have to move over to the Conservative Party. If they wish to pursue this, they may do so.

Mr. Brown, seven minutes.

Mr. Gord Brown (Leeds—Grenville, CPC): Thank you, Mr. Chairman.

Welcome back to Parliament Hill, Ms. McLellan. It's good to see you again.

Today's testimony really leads to more questions, and I sense from hearing from the witnesses a real sense of frustration that we're really not getting any answers. In fact, what we're getting is leading to more questions.

One thing you've said was that you believed the Americans sent Mr. Arar to Syria based on their own information. In fact, you're the first one who's been quite clear on that. If that's the case, why do you believe the Government of Canada owes Mr. Arar an apology and could be on the hook for up to \$400 million?

Hon. Anne McLellan: First of all, it's my assumption and it was always my assumption that the United States must have had some information of its own. Now, I could be wrong in that assumption. I don't know. Of course none of us know, because part of the problem was that the U.S. decided not to cooperate with Mr. Justice O'Connor's inquiry. So it was my assumption that you would not take a Canadian citizen, albeit a dual citizen, and send them to a third country unless you had some persuasive reasons for so doing. I assumed that the United States would have its own independent evidence as to why they would do that, but I could have been wrong in that assumption.

• (0940)

Mr. Gord Brown: We know you took up your duties with Public Safety and Emergency Preparedness in December of 2003, which was right after Mr. Arar came back to Canada and had his media conference where he advised us that he had been tortured, and he suspected, rightly, that there was Canadian complicity in the fact that he was sent there. So I take it, as a member of cabinet at the time, that you were aware of the case before you became the minister, and that after becoming the minister responsible for the RCMP you checked into it and saw that they may have supplied some inaccurate information to the Americans about him.

This is going back to my original question. Were you aware, for example, of your government's efforts to seek his release and the attempted one-voice letter?

Hon. Anne McLellan: Pardon me? I am sorry, I couldn't hear you.

Mr. Gord Brown: Oh, I'm sorry. Were you aware, for example, of your government's efforts to seek his release in the attempted one-voice letter, at the time?

Hon. Anne McLellan: I think I was probably aware of the activities. Keep in mind, I was Minister of Health, but I think that at cabinet, at various points, if my memory serves me correctly, Mr. Graham would provide a general review of a host of issues, and it was quite clear we were very concerned about his deportation. In fact, as I mentioned in my opening comments, Mr. Graham was so concerned that the U.S. would deport a Canadian citizen to a third country that he immediately set about working with Colin Powell to reach an agreement by which we would hope that wouldn't happen again.

So, yes, if you're asking was I generally aware before I became Minister of Public Safety that there was an attempt to reassure or to make sure the Syrians understood that we wanted Mr. Arar returned, yes, and I think that was generally discussed.

Mr. Gord Brown: Let's move on to when you were first appointed minister. Margaret Bloodworth was your deputy minister at the time, from the outset.

Hon. Anne McLellan: At the time—?

Mr. Gord Brown: She was your deputy minister when you became the minister?

Hon. Anne McLellan: As of December 13, 2003, yes.

Mr. Gord Brown: And was she your deputy throughout your term in that portfolio?

Hon. Anne McLellan: Yes.

Mr. Gord Brown: Okay. Now, I presume that you'd agree with me that Ms. Bloodworth is one of Ottawa's most experienced civil servants and that as minister you relied on her knowledge and accurate and timely and relevant information on all of the subjects, including things such as the gun registry issues and of course the Arar issues. Is that right?

Hon. Anne McLellan: Well, she was my deputy, and therefore she was involved in all the key issues and files in the department. For example, after our decision to go to a public inquiry, she worked very closely with then Deputy Minister of Justice Morris Rosenberg

and Rob Wright, who was national security adviser, to determine the terms of reference for Mr. Justice O'Connor, and so on.

Mr. Gord Brown: Okay, good. Can you tell us about the last time you spoke with Ms. Bloodworth? When was the last time you spoke to her?

Hon. Anne McLellan: In an official capacity? When I left the—

Mr. Gord Brown: Period. When was the last time you spoke to her?

Hon. Anne McLellan: Well—

Mr. Gord Brown: Have you spoken with her since the O'Connor report was released?

Hon. Anne McLellan: I talked to her briefly, but not in relation to this matter, on something entirely different.

Mr. Gord Brown: Okay. How are we timewise?

The Chair: You've got about two minutes.

Mr. Gord Brown: When you were first appointed you had a series of briefings, did you not, from your departmental officials, including Ms. Bloodworth? Is that right?

Hon. Anne McLellan: I had a series of briefings, yes. My deputy was not in all of the briefings, but she certainly would have attended a considerable number of them.

Mr. Gord Brown: You also heard from Commissioner Zaccardelli, is that right?

Hon. Anne McLellan: Yes.

Mr. Gord Brown: And the director of CSIS?

Hon. Anne McLellan: Yes.

Mr. Gord Brown: So given the profile of this Arar case, and what we now know to have been a PCO briefing where there were some discrepancies on the subject, I presume that those briefings included both the case itself and the PCO briefings. Is that right?

Hon. Anne McLellan: I received no briefing in relation to a PCO briefing.

Mr. Gord Brown: Okay.

Hon. Anne McLellan: Nor would I. There would be no reason why I would know anything about that.

Mr. Gord Brown: Did you ever meet privately with the commissioner or director of CSIS?

Hon. Anne McLellan: Yes. I mean, privately—

Mr. Gord Brown: Pertaining to the Arar case?

Hon. Anne McLellan: My chief of staff would be present, Margaret might be present, Rob Wright might be present, but yes.

Mr. Gord Brown: Was Ms. Bloodworth always present?

Hon. Anne McLellan: No. I do not think she was always present.

Mr. Gord Brown: Okay.

I'm having a little bit of trouble believing that as the minister responsible for what was, at that time, a hugely public security case, it wouldn't dawn on you to ask these questions of these people.

• (0945)

Hon. Anne McLellan: What questions?

Mr. Gord Brown: In this passive role, you didn't seem to ask the questions about the case that you were hearing about from all of these people. This is a case that could cost the taxpayers of Canada up to \$400 million at this point, and maybe you didn't expect that to be the case at the time. You became the minister; it was at the time the leaks and all these things were happening, and yet you weren't asking all of those questions?

Hon. Anne McLellan: No. I became minister and my focus was getting to the bottom of it. We knew that the questions were growing, and my obligation, at the request of the Prime Minister, was to get to the bottom of this matter—hence the O'Connor inquiry. In fact, I believe, more so now than ever, that it was the responsible course of action, because now all Canadians understand what happened. That was my focus.

We knew that things had happened that had raised serious questions. Those questions were being raised by Mr. Arar and his own lawyer, being raised by the press and others, and my goal was to find and put in place a mechanism by which we could all get the facts so the rumour and the innuendoes and the leaks would hopefully stop and we would actually have an independent, credible third party be able to tell all of us what happened and why. That was my focus.

The Chair: We'll have to wrap it up.

We'll now begin the next round of questioning. Five-minute questions.

Mr. Cotler, please.

Hon. Irwin Cotler (Mount Royal, Lib.): Thank you, Mr. Chairman.

You had mentioned that you had been advised regarding Maher Arar that he was a "person of interest". My question is, do you not believe that a Minister of Public Security in a post-9/11 universe, whoever that minister would be, should have been advised that the RCMP considered Maher Arar, or any other person who they might have had such views of, to be an Islamic extremist associated with al-Qaeda? Should not this be the kind of information that would be normally conveyed to a Minister of Public Security?

Hon. Anne McLellan: One would presume so. In fact if one believed that someone was an Islamic extremist with al-Qaeda connections, this is indeed the kind of thing a Minister of Public Safety should know and should be informed of. As I said earlier, to the best of my recollection, Maher Arar was never described in those terms, by anyone, to me.

Hon. Irwin Cotler: Let me put the same question in another context. Is it not somewhat strange that this information, which ought, in my view, to have been conveyed to whoever would be the Minister of Public Security in Canada, would have been conveyed to an American official while not being conveyed to a Canadian Minister of Public Security?

Hon. Anne McLellan: I don't know, and quite truthfully, while I read Mr. Easter's testimony, I do not remember whether you asked him and what his answer was, in terms of whether he ever received information that described Maher Arar in those terms. All I know is that I didn't receive such information. But if at some point the RCMP or CSIS believed someone to be an Islamic extremist with al-Qaeda connections, one would presume that this information would be conveyed to, at a minimum, the Minister of Public Safety.

Hon. Irwin Cotler: At a minimum, would it not be the case that the Minister of Public Security would also have then to be advised that the information was false and misleading? To put it another way, why should the U.S. authorities have had that false and misleading information corrected? The Canadian Minister of Public Security never had it corrected while the commission of inquiry was set up, or even before that.

I'll put it to you another way. Would it not have been something that, as the Minister of Public Security, you ought to have known? The government ought to have known in order to determine whether a commission of public inquiry was the appropriate mechanism or some other mechanism, shouldn't it?

Hon. Anne McLellan: I agree that it would have been useful information to have from the force, or whoever, that a mistake had been made and that incorrect information had been conveyed to authorities in the United States in relation to Maher Arar. My own view would be that this would lead to another set of issues that might very well lead to a public inquiry, or become part and parcel of a public inquiry, in relation to how that mistake could have been made, why it was made, and what the procedures are that should have been followed but weren't, and whether we need procedures and oversight mechanisms.

Yes, I take your point, that if some within the RCMP believed that false information had been provided to the Americans, as Minister of Public Safety I would have expected to be told that, if they understood that they had provided false information.

• (0950)

Hon. Irwin Cotler: As Minister of Public Safety, would you not have considered it appropriate...or in another way, inappropriate for you not to have been advised, or anyone to have been advised, during the entire time of the commission of inquiry, while misleading leaks continued to come out that Maher Arar in fact was not what had initially been said of him and what continued to be said of him? In other words, the public record was never corrected by the RCMP during the entire time that this information had been conveyed to the U.S., then corrected in the U.S.; the public record in Canada had never been corrected.

The Chair: That will have to be your final question for this round.

Hon. Irwin Cotler: That is my final question.

Hon. Anne McLellan: I would say this. Once Mr. Justice O'Connor was put in place, it does not surprise me that those who were going to testify and be subject of his investigation would not, outside the inquiry, offer gratuitous comments. I would personally find that inappropriate. Mr. Justice O'Connor was in place; he was investigating this matter; he was going to hear testimony from the RCMP, from CSIS, and so on. That's why he was put in place, to be able to bring everything together in one place and make, we hoped, definitive conclusions around who knew what, when, and what was said by whom, and what the consequences of it were.

I agree that up until the appointment of Mr. Justice O'Connor and the decision to have the inquiry, if the RCMP knew that Maher Arar had been mis-described at any time and in their opinion was an innocent person, it would have been useful if not expected that they would so convey publicly.

The Chair: Monsieur Ménard, you'll have five minutes.

[Translation]

Mr. Serge Ménard: Thank you once again, Madam, for your cooperation. I believe you made the right decisions at the time this matter was brought to your attention.

Based on what you're saying, you would have preferred by far to see the United States agree to cooperate with Justice O'Connor. Correct?

[English]

Hon. Anne McLellan: Absolutely, that is the key piece that is missing.

[Translation]

Mr. Serge Ménard: I see. Nevertheless, you were all well aware of one thing. Canada may be working today with Syria to fight terrorism, but we are all well aware of that country's interrogation techniques and the types of prisons it has. Agreed?

[English]

Hon. Anne McLellan: That would be a fair assessment, based on a number of different pieces of information, including the fact-finding report done at the request of Mr. Justice O'Connor by the now president of UBC, Stephen Toope.

[Translation]

Mr. Serge Ménard: To send a citizen to a Syrian jail is a serious act that cannot reasonably be justified, unless one seriously suspects that person of being linked to terrorist organizations.

[English]

Hon. Anne McLellan: If I were a Canadian government official and we were seeking to remove someone from this country and return them to Syria, I would be very concerned about that, because we signed the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Based on what we know of Syrian activities, I would be very concerned, in relation to the deportation or return of someone to Syria, if that person asserted that he or she was likely to be tortured.

The bottom line is, yes, I think that we as a country need to be concerned in terms of where we send Canadians or others, if we have reasonable suspicion of torture or other inhumane acts.

• (0955)

[Translation]

Mr. Serge Ménard: It is still not known why the Americans deported Mr. Arar to Syria. Therefore, we're forced to speculate as to two possible reasons.

[English]

Hon. Anne McLellan: That's right.

[Translation]

Mr. Serge Ménard: The Americans were able to return Mr. Arar to Syria after receiving inaccurate information from the RCMP, and on the basis of their own intelligence. This would seem to indicate that Mr. Arar was linked to terrorist organizations or that there was very good reason to believe he was. In any event, these reasons were sufficiently serious to deport him to Syria.

Even though they may have had their reasons, there is no excuse for the Americans not sharing them with Canadian authorities. If two countries engaged in the fight against terrorism exchange information and if one country has information that closely links a citizen from the other country to terrorism — enough information to deport that citizen to Syria — then it's natural that it would share that information with the other country. Yet, we are still in the dark as to the reasons involved.

[English]

Hon. Anne McLellan: As a matter of operational principle, I would agree that information should be shared.

I would go even further and say that I would be most concerned if they chose not to share that information. That would be something a prime minister would take up with a president, or someone in my position would take up with a John Ashcroft or a Tom Ridge, or whatever the case would be, if we believed that they had such information and were not willing to share it with their counterpart organizations in Canada.

[Translation]

Mr. Serge Ménard: Back when you were merely a minister, if Cabinet had known that the head of the RCMP was convinced of Mr. Arar's innocence and lack of ties to terrorism, do you believe the government would have acted differently to obtain his release from Syrian authorities?

[English]

Hon. Anne McLellan: I think that the government of the time made all reasonable efforts to free Mr. Arar from Syria, and Mr. Justice O'Connor made that point quite clearly in his report. He does not really criticize the Canadian government, the Minister of Foreign Affairs, our consular officials, and others, in terms of the actions they took to try to get Mr. Arar out of Syria.

Mr. Justice O'Connor talks about the fact that he had some concerns around the one-voice letter and what happened or didn't happen. But overall, he felt that the Canadian government discharged its obligations and responsibilities, in relation to getting Mr. Arar out of Syria and letting the Syrians know we wanted him back. In fact, Prime Minister Chrétien wrote such a letter to the Syrians.

In a sense, we didn't even need some kind of statement from the RCMP that Mr. Arar was completely innocent. What we wanted was Mr. Arar, as a Canadian citizen, out of Syria and back in this country. We believed that it was singularly inappropriate for the United States to deport a Canadian citizen to a third country, without even consulting Canada about that deportation. So we wanted him back.

The Chair: Thank you.

We'll move to the final questioner for this round. Mr. Hawn.

Mr. Laurie Hawn (Edmonton Centre, CPC): Thank you, Mr. Chair.

Ms. McLellan, it's good to see you again.

Before I get to a couple of questions I'd just like to echo the incredulity across the way at the lack of curiosity of the Minister of Public Safety, and that there wouldn't have been more probing on your part, given the information in the public domain available to 32 million people that suggested Maher Arar may have been something beyond being a person of interest.

I want to follow up a little on Mr. Brown's questions. Were you ever told by the RCMP or your deputy that the information supplied to PCO was inaccurate or incomplete?

Hon. Anne McLellan: No.

Mr. Laurie Hawn: Did you ever speak with people at PCO about the Arar case during your time as minister? If so, did those people include Rob Wright and Bill Elliott?

• (1000)

Hon. Anne McLellan: I'm not so sure about Bill Elliott, but certainly Rob Wright. He was national security adviser to the Prime Minister.

Mr. Laurie Hawn: Were you provided with information about that PCO brief, including its actual content, or whether the department had been advised?

Hon. Anne McLellan: No. I never knew that some kind of briefing note had been provided to PCO. PCO receives dozens of briefing notes every day from different agencies and organizations in government. I would not necessarily be made aware of any particular briefing note.

Mr. Laurie Hawn: Given your ministerial responsibilities, do you agree or not that this was information you should have been provided, whether from the RCMP, CSIS, or your department, if they were aware that the RCMP briefing to the PCO was inaccurate or incomplete? Should they not have spoken up if they knew that?

Hon. Anne McLellan: I suppose at some point, when the RCMP knew they had sent a briefing note to PCO that was incomplete or erroneous, they should have certainly corrected that with PCO. Whether I would know that or not, or whether I should, was not necessarily germane. As I said, the RCMP provided briefing notes, as did CSIS and others, to PCO at their request, which is perfectly normal.

Mr. Laurie Hawn: Given the profile of the Arar case, if they knew there was something amiss don't you think they had a responsibility to tell you? Wouldn't you have expected that?

Hon. Anne McLellan: They told the Clerk of the Privy Council and anyone who requested that note, absolutely. I believe that note

was provided to PCO before I became minister, based on the timelines, but I'm not sure about that.

Mr. Laurie Hawn: Commissioner Zaccardelli has told this committee that he personally learned of the RCMP errors in November 2002, and he thereafter briefed ministers and officials about what he had supposedly learned. Mr. Elcock, Mr. Easter, and you deny hearing that.

I know you weren't minister at the time, but I'd ask your opinion. Do you think we should be calling Ms. Bloodworth to testify before this committee? There's a collective lack of memory, or something more deliberate perhaps at the highest levels of the Canadian security bureaucracy, which thankfully Justice O'Connor has exposed.

Hon. Anne McLellan: It's up to the committee to determine whether you want to call Margaret Bloodworth. She was my deputy from December 13, 2003, forward, after Mr. Arar returned to this country. I think she was Deputy Minister of National Defence before that. I'm not sure what direct information she would have in relation to the Arar situation. If you felt that she had useful information, I'm sure you could call her.

Mr. Laurie Hawn: We have three ministers now on one side and one commissioner on the other side, in terms of who knew what.

Hon. Anne McLellan: I understand you're going to call Commissioner Zaccardelli back. He may very well clarify some of his comments on what he knew when. I can only testify as to what I knew when. The first time I knew that the RCMP had provided inaccurate information to the United States was when I read Mr. Justice O'Connor's report.

Mr. Laurie Hawn: Given all the information in the public before that, it never sparked your curiosity to be more forceful with people in departments your department was responsible for, to ask—

Hon. Anne McLellan: As I said, we were concerned about leaks. Why would I assume that the RCMP would not follow their normal operating principles in relation to the provision of information to the United States? There were protocols in place, and there were caveats. That was part of the normal operating procedure. There was no reason to presume that the RCMP would not have followed normal procedures.

By the time I became minister there was sufficient concern and murkiness around certain things, especially comments made by Mr. Arar as to his treatment, that the then Prime Minister said, "Anne, I want us to get to the bottom of this." I immediately began to work toward a process by which we got to the bottom of this. That of course led to the appointment of Mr. Justice O'Connor within two months, which, as you're probably learning, is virtually lightning speed within the Government of Canada.

The Chair: Final question.

Mr. Laurie Hawn: I applaud you for that.

Given that there are so many questions unanswered, and I frankly doubt that we'll ever get much satisfaction on this, what's your view of a parliamentary oversight committee to oversee the operation of the Canadian security services?

•(1005)

Hon. Anne McLellan: Of course I introduced legislation to that effect. Monsieur Ménard, Mr. Comartin, my former colleague, Irwin Cotler, all worked very hard, as did Mr. Sorenson and others, in relation to the creation of such a committee. I introduced legislation just before we were defeated in the House last November—painful event as that was. I introduced legislation last year, and while there was not unanimous agreement on all aspects of it—and Mr. Comartin or Mr. Ménard might speak to this—I think we worked conscientiously in an all-party fashion, House of Commons and Senate, to put forward a piece of legislation creating a parliamentary oversight mechanism similar to that in the United Kingdom, where you would have parliamentarians come together in a non-partisan way, because national security is not a partisan issue. You would in fact create an all-party committee the members of which take a special oath, so they have access to sensitive information, and they work in such a way that they are able to provide an additional, and I think important, degree of oversight in relation to national security agencies and activities.

Mr. Laurie Hawn: I can't say that I share your pain.

Hon. Anne McLellan: No, I didn't expect you to.

The Chair: Thank you. We very much appreciate your attitude toward that. Anyway, thank you.

Mr. Alghabra, for five minutes, please.

Mr. Omar Alghabra (Mississauga—Erindale, Lib.): Thank you, Mr. Chair.

Good morning, Ms. McLellan. It's good to see you again.

First I want to go back to a point that was mentioned earlier, particularly by Mr. Brown. You brought up the fact that, yes, there is a possibility that the Americans had other information that led them to the deportation of Mr. Arar to Syria.

I want to make it very clear, and I want to see if you agree with me, that it is indisputable that the RCMP had sent misleading information to the American authorities. I think it's very difficult to argue that it did not contribute to the deportation of Mr. Arar to Syria. Is that a factual statement?

Hon. Anne McLellan: I agree entirely with the conclusions of Mr. Justice O'Connor in that matter, and I think you've just summarized them.

Mr. Omar Alghabra: So whether the Americans had any other sources of information or not, it might be relevant to try to understand why the Americans did what they did. It's still within our mandate, our responsibility in fact, that the RCMP had broken protocol and sent misleading information.

Hon. Anne McLellan: Absolutely. That is what Mr. Justice O'Connor concluded.

Mr. Omar Alghabra: I don't think that fact is being disputed, especially after Mr. Justice O'Connor's report.

What I find interesting is that all three former ministers, including yourself, have told us that none of that information was shared with the ministers by the RCMP, that none of the information that was given to the United States authorities that was misleading was being shared with the ministers.

Hon. Anne McLellan: I can only speak for myself, but I was not aware that inaccurate information was provided by the RCMP to the Americans. I knew that information had been provided, and that would be perfectly normal. I did not know that inaccurate information had been provided.

Mr. Omar Alghabra: At the time you probably wouldn't have known if it was inaccurate or accurate, but were you told exactly what the information was that was shared with the American authorities?

Hon. Anne McLellan: I do not remember precise details, but I am sure that in a general sense, when I was briefed by the commissioner and others when I became Minister of Public Safety, I was told of concerns in relation to Mr. Arar being a person of interest. And I think I would have been told the fact that there were others. For example, as Mr. Justice O'Connor points out in his testimony, the reason it appears Mr. Arar was a person of interest was because of some of his associations. I think that general factual context was provided to me.

•(1010)

Mr. Omar Alghabra: But we know now that part of the information the RCMP had given to the American authorities said that they, the RCMP, considered Mr. Arar to be an Islamic extremist.

Hon. Anne McLellan: That was an expression never used in my presence.

Mr. Omar Alghabra: So there's obviously a disconnect between what information the RCMP had given the American authorities and what they had given the ministers, particularly you.

Hon. Anne McLellan: All I can say is that I do not, to the best of my recollection, ever remember being told that Mr. Arar was an Islamic extremist.

Mr. Omar Alghabra: Now that you know that, what is your opinion of that disconnect? How do you categorize or what would you consider that behaviour? Was that incompetence? Was that a deliberate misleading of ministers?

Hon. Anne McLellan: Just as Mr. Justice O'Connor determined, I think there was no deliberate intent here to deceive. There was no complicity on the part of Canadian officials in Mr. Arar's deportation to Syria. Mr. Justice O'Connor is very clear about that. I think mistakes were made, as I said in my opening statement.

There were normal processes that anyone, including any minister and any Canadian, would have the right to expect the RCMP to follow. There is a serious question that I think Mr. Justice O'Connor addresses as really the heart of the matter in some respects. The processes were in place. He finds that conclusion. Why weren't they followed? He offers us some of his views on why they were not followed.

The Chair: A brief one.

Mr. Omar Alghabra: Do you think someone should be held accountable? If so, who do you think should be held accountable?

Hon. Anne McLellan: Obviously, in government, transparency and accountability are very important. That's why we asked Mr. Justice O'Connor to do what he did. If mistakes are made, then there has to be accountability for those mistakes. But I don't think we should live in a world where accountability always means someone gets fired. In fact, I think that's a very immature view of accountability. In some cases, it may mean that someone gets fired, and fair enough. In other cases, it may mean something else. It may mean you change the procedures that you had in place that led to the mistake, to make sure that it doesn't happen again.

It's my understanding that this is in fact what the force has done. Commissioner Zaccardelli testified to that effect, that he has taken up the recommendations of O'Connor in terms of centralizing a clearing house for the sharing of information, both domestic and foreign, and so on.

Accountability is key. Accountability takes very many forms, and we have to get past the notion that heads must roll to have accountability. Sometimes maybe they should. In other cases, it will be something else that is perhaps more important in terms of the culture of that organization.

The Chair: Thank you very much.

We'll now go over to the government side. Mr. MacKenzie.

Mr. Dave MacKenzie (Oxford, CPC): Thank you, Chair.

Thank you, Ms. McLellan, for being here.

I have some serious concerns about the fact that the whole focus seems to be to blame officials for whatever went wrong. I would suggest to you—and I think you would probably concur—that your role and the cabinet's role in government is to provide governance to those agencies that report upwards to us, right?

While that was going on, obviously there was a lot of press and there must have been some discussions within cabinet. I look to my friend Mr. Cotler across the table. He's a learned individual. He was the Minister of Justice. You had lots of people at that table who could have raised questions and provided questions to you that should have gone back down to the officials we're now criticizing. Did that ever occur?

Hon. Anne McLellan: There were general discussions at cabinet. As I say, the Minister of Foreign Affairs, Bill Graham, would update colleagues in terms of a wide range of issues. Clearly there was concern around how Mr. Arar ended up in Syria and the efforts being made to get him back.

Keep in mind that when I became minister, I was given a clear mandate from Prime Minister Martin: "I want you to get to the bottom of what happened." We immediately set about determining the best process to put in place to get to the bottom of the matter. I'm very proud to say that we put Mr. Justice O'Connor in place, and I believe we got to the bottom of this matter to greatest extent possible.

•(1015)

Mr. Dave MacKenzie: I wouldn't want to debate that issue, but it would seem to me that in the position you were in, given that the press was reporting what they were reporting, whether it was accurate or factual or not, given issues surrounding the leaks, given

all of the concerns that we're now hearing, and given the indignant approach that has been taken toward the authorities—the RCMP, CSIS, and others—someone should have been telling you to ask the commissioner and to ask these people where the leaks were, whether there was any truth in these matters, and what you needed to do to go forward. Without getting into the areas that Mr. O'Connor ultimately got into, in that whole timeframe there had to be questions that were coming forward.

Hon. Anne McLellan: There were serious questions about the leaks. In fact, that's why investigations were begun. I believe PCO began one, the RCMP began one, and CSIS began one into the leaks. In fact, as I say, that was a concern of mine, where these leaks were coming from, because in fact these leaks could be very damaging to Mr. Arar and they could be very damaging to the credibility of our law enforcement and intelligence agencies. That's why those investigations were begun.

At the end of the day, though, I think by the time Mr. Martin became Prime Minister and I became Minister of Public Safety, we had determined that there was sufficient murkiness in terms of the stuff that was in the papers, the fact that people couldn't find out where the leaks were—

Mr. Dave MacKenzie: But did we ask those officials what information they had passed to the Americans? That seems to be the crucial issue. If nobody ever asked what information they passed, how could we make decisions on whether or not the Americans acted on our information or they acted on information that they already held?

Hon. Anne McLellan: As far as I remember, in the briefings I had, I was clearly told that information was shared and that the information was in relation to Mr. Arar. As I say, however, to the best of my remembrance, he was never described as an Islamic extremist to me.

Mr. Dave MacKenzie: But that's a briefing. Did you ask the question: Did we provide—

Hon. Anne McLellan: Why would I ask, "Did you describe Mr. Arar as an Islamic extremist?" No, I wouldn't do that.

Mr. Dave MacKenzie: What information did we pass to the Americans? That's the simple question.

Hon. Anne McLellan: We did in fact talk about the information that was provided to the United States. The problem here, of course, is that it was only later, in Mr. Justice O'Connor's report, that it came to my attention that there had been inaccurate information provided. By the time I became minister, nobody was describing Arar—and Mr. O'Connor documents this—as an Islamic extremist. Based on what Mr. Justice O'Connor discovered, they had corrected the information by that time, so nobody was describing him as an extremist to me.

Mr. Dave MacKenzie: But I think my friend is suggesting the RCMP considered him an Islamic extremist.

Hon. Anne McLellan: At some point, but as Mr. Justice O'Connor pointed out, that information was corrected.

Mr. Dave MacKenzie: Do we know if that information ever went to the Americans from the Canadian side? Did our officials describe him to the Americans—

Hon. Anne McLellan: What I know is what Mr. Justice O'Connor said. He had the opportunity to bring together everybody involved in this piece, to hear from everybody, both in public and in camera. Therefore, I think Mr. Justice O'Connor tells us and provides us with the best information in relation to what was conveyed to the United States.

The Chair: You'll have to wrap up. Thank you.

We'll go back to the Liberal side, and Mr. Holland.

Mr. Mark Holland: Thank you, Mr. Chair.

I think the issue is one that, in fairness, you can't answer. That's part of the problem, but we're belabouring the point. The problem is that there is deep concern with the fact that the RCMP would have sent information to the United States that indicated that Maher Arar was an Islamic extremist and potentially a terrorist, and the fact that they then would not have shared that with you, with Mr. Easter before you, or with other government officials. That's the concern.

I think what you're telling us is that they didn't, and—

• (1020)

Hon. Anne McLellan: No, they didn't.

Mr. Mark Holland: —all evidence backs that up. That's the concern of committee members, and I don't think you probably can answer a lot more on that, other than to say that it leaves some very disturbing questions about why that occurred.

I'm wondering if we can go back to the issue of oversight for a second. In the wake of this, there were two actions that were taken. One was to establish the commission of inquiry to have Justice O'Connor look at this and prepare his reports in two phases, as he's doing. The second item related to oversight and ensuring that Parliament had a greater role.

Hon. Anne McLellan: Right.

Mr. Mark Holland: Can you elaborate upon that a little bit and talk about what other actions were taken in terms of the oversight of security and intelligence, and specifically of the RCMP?

Hon. Anne McLellan: As I mentioned in my comments, when I became minister I was given the specific mandate to look at whether additional oversight was required for the RCMP in its role as it related to national security. I took that challenge up, and as we worked through how we might go about determining what additional oversight might be required, it became apparent that the best person to offer us advice, in all likelihood, would be Mr. Justice O'Connor, because he would have worked through a specific example, potentially, where oversight might have been lacking. We thought it made an awful lot of sense not only to give Mr. Justice O'Connor the factual Arar inquiry but then, flowing from it and in more general terms, tap his expert knowledge concerning what additional oversight was required.

It's quite clear, although we don't have his second report, that he will recommend an independent oversight mechanism of some sort. We looked at... For example, the public complaints commission exists, but my own view is that as presently constituted, with its present mandate, it has neither really the mandate nor the resources to do what is required by way of additional oversight as it relates to RCMP activities in the area of national security. So whether you

increase its mandate and give it more resources or whether you create an independent body... I think it's pretty clear that Mr. Justice O'Connor talks about an independent review body. I presume he means not the public complaints commission but some additional body.

Consider SIRC. I think SIRC has worked generally well for CSIS, and SIRC is an aggressive body that takes its mandate seriously, that is well resourced to do what it does, and I think has developed substantial credibility, not only here but abroad, in terms of providing oversight for the activities of CSIS. I would think, based on what I've read of O'Connor so far—he talks about an independent review mechanism—that's probably the way he is going to go, although we all await that.

I would agree with it. In the area of national security, as he says, the lines blur a little bit, as hard as one tries to prevent it from happening. The lines blur between what is intelligence-gathering and what is traditional criminal investigation and law enforcement.

Consequently, an oversight mechanism in relation to those activities that are fairly described as being of a nature concerning national security makes sense for the Royal Canadian Mounted Police. Leave the public complaints commission to deal with oversight and review, as it relates to traditional criminal investigations and law enforcement; create an additional body, in all likelihood, for oversight as it relates to national security.

The Chair: This is your final question.

Mr. Mark Holland: The next issue for me, in looking at this, is that we had three separate bodies with different pieces of intelligence that chose to share that intelligence in different ways, both with the government and with other agencies. In the example of the RCMP, they seem to have shared certain information with the government, certain information with CSIS, certain information with foreign governments, such as that of the United States—the information they got from CSIS or from the government.

How do we reconcile this? Obviously we have a real problem here. You have three different bodies with different points of view on the intelligence that's before them and different ways of using that intelligence. Do you think it speaks for the need to have one vehicle through which intelligence is collected and vetted?

Secondly, what about rules around information that comes from states that are known to practice torture, and the fact that the RCMP and CSIS, when looking at that information—particularly CSIS—made an assessment that torture wasn't involved, and yet the person making that assessment had no experience in torture? How do we get past some of those things? Do you have any thoughts on it?

• (1025)

Hon. Anne McLellan: First of all, as it relates to the receipt of information for countries where we have a reasonable suspicion to believe they use practices such as torture, as Mr. Judd testified, one needs to be very careful about that information. And one should be. I would not say one never uses that information, but I would say you shouldn't use that information unless it is corroborated by other sources you believe, where the corroboration comes from information not derived—or you at least have a reasonable suspicion it was not derived—from a product of torture. So I think corroboration is key, if you have a suspicion there is any intelligence or information you've received that came from the product of torture.

In terms of intelligence, I don't think you can have one agency collecting intelligence. In the world in which we live, intelligence is gathered by intelligence-gathering agencies like CSIS, the RCMP, the Department of Transport, the Department of Foreign Affairs and International Trade, the Department of Immigration, and so on. They all collect information or intelligence of one sort or another. What you need to do is what we did, what the British have done, what the U.S. is now working toward, which is some kind of integrated assessment body where all that intelligence comes together in one place and you have your key analysts from all those departments, senior people, working together. All the information is on the table. It is shared and it is analyzed and then it goes back to the front lines to, I hope, be able to prevent high-risk individuals, for example, entering the country or being able to cause harm or whatever the case. Hence, we created an integrated threat assessment centre to bring all that intelligence together.

Key intelligence-gathering agencies have to have oversight. CSIS has SIRC. We will see what Mr. Justice O'Connor has to say about what should exist for the RCMP. Ultimately, there should be an oversight committee of parliamentarians that can sit on top of all this, in a sense. If you have some concern about how DND is collecting and using intelligence or whether they're not sharing it with our integrated threat assessment centre—

Mr. Mark Holland: That's the key, exactly.

Hon. Anne McLellan: —you as parliamentarians should be bringing people before you and getting to the roots of the matter in terms of what's happening, who's putting what on the table. Are people holding back? Are people protecting turf? If so, that could endanger the well-being of Canadians, and you as parliamentarians need to know that. That's one of the roles an oversight committee could play, an oversight committee of parliamentarians.

The Chair: Thank you, Ms. McLellan. You obviously are a teacher and a professor and you make sure we get the full answer with no loose ends. Thank you.

Hon. Anne McLellan: I'm sorry.

The Chair: I want to follow up on this. Was the O'Connor commission ever instructed to give us feedback on whether there should be parliamentary oversight? You're just talking about Parliament. Did you ask him to do anything in that respect?

Hon. Anne McLellan: No. That was not a specific question.

The Chair: Why not?

Hon. Anne McLellan: Because we asked him to look at the specific question of whether additional oversight was required for

the RCMP as it related to their national security activities. Mr. Justice O'Connor may—I don't know, I haven't seen his report—talk about the importance of parliamentary oversight as part of his answer to the question. We kept the question very general: What do you think would be appropriate oversight for the force, as it relates to national security matters? He has tipped his hand in a sense, in the first part of his report, by saying he believes an independent review mechanism is important for the RCMP. He may go further—I don't know, Mr. Chair—and talk about the importance of parliamentary oversight and the fact that it would be a complementary cap to any kind of independent review mechanism he might suggest. Certainly there's nothing that precludes him from talking about parliamentary oversight in his second report.

The Chair: Thank you.

Everyone has had an opportunity to ask questions in this first round. Does anyone else have any other questions to pose before we wrap this up? Everybody has had one opportunity.

We'll go to the Liberal side. Mr. Alghabra, are you going to...? Or Mr. Cotler. Which one of you will it be?

• (1030)

Hon. Irwin Cotler: This is not a question, but Mr. MacKenzie kindly made reference to the fact as to whether Maher Arar could have been discussed with some other people around the cabinet table, like me. For the record, I need to mention I recused myself in all matters relating to Maher Arar, because I had acted as counsel for his family prior to my being appointed to the cabinet. Consequent upon the establishment of the commission, something that I otherwise recommended, I then immediately desisted and was not in the room when any discussion.... I left the cabinet room whenever any discussion might have taken place relating directly or indirectly to Mr. Arar.

The Chair: Thank you.

Mr. Alghabra, do you have some brief questions?

Mr. Omar Alghabra: Yes, thank you, Mr. Chair.

I want to go back to the discussion you and I had about accountability. I agree with you. I don't necessarily think, although maybe some people do, that the finishing of accountability is rolling heads. There are many measures. And I think it's also good that we examine our protocols and see if we need to strengthen them. But the reality is that the existing protocols were broken. So there were protocols that were broken. Therefore, while we want to examine how we can make sure that our protocols are foolproof and more friendly, how do we deal with the fact that we know the rules were broken, in your opinion?

Hon. Anne McLellan: I think you need to hold people to account for the fact that rules were broken, and as I said, there are different ways one does that. And it will be up to the government of the day to decide whether they believe accountability, in this context, requires that someone, anyone, be relieved of his or her official functions.

But I do think that one of the key ways we make sure that these kinds of things don't happen again is to review the protocols, the basis on which we share information, the countries with which we have agreements, and whether the terms of those agreements are satisfactory, especially when we have a reasonable apprehension or suspicion that countries practise torture. We make sure that the reliability of the information is tested. If we have concerns about reliability, we share those concerns with whoever we're giving the information to, either domestically or in foreign countries, especially if we're giving that information to foreign agencies. If we have a concern about reliability, we explain it fully. We put other caveats on the information, caveats that would restrict its use. If information is provided to the FBI, do we want to put a caveat on that information that it only be used by the FBI for the following purposes?

Now, we can't guarantee that those caveats will be followed, but we have a reasonable expectation, and we should in fact make it clear, if it comes to our attention that they haven't been followed, that we fundamentally disagree with that approach and express, at the highest levels, our objections to the breaching of the terms on which information was shared.

So we need to review all those procedures. And we need to create and we need to reinforce through training a culture in which in fact those protocols are treated seriously, and in which, if we have a policy of caveats, they're always applied, and regardless of the circumstances, they are not ignored and they are not pushed to one side. Because we see with Mr. Arar what the costs can potentially be when in fact those rules aren't followed.

Mr. Omar Alhabra: I do want to state that prior to becoming a parliamentarian I was an advocate for civil rights.

Hon. Anne McLellan: Yes.

Mr. Omar Alhabra: I want to commend the work your department had done at the time to increase sensitization of the forces and to increase interaction with Canadians and training and education. I thought, at the time, that those initiatives had gone a long way and were certainly benefiting Canadians and law enforcement agencies.

I want to ask another question, and it's relevant to what Mr. Holland just asked. Do you have an opinion on the fact that the RCMP has now gotten back into intelligence gathering for national security and that there might be some duplication with CSIS? Do you have an opinion on that and on what the relationship between these two agencies should be?

• (1035)

Hon. Anne McLellan: Mr. Justice O'Connor talks about that. In fact his first recommendation goes directly to the heart of that matter.

There are lines that, by force, get blurred from time to time, but I agree with Mr. Justice O'Connor: you have to work really hard to try to keep the lines as distinct as possible. CSIS is there to collect intelligence. They are not a law enforcement agency. They do not do criminal investigations. In fact, as Mr. Justice O'Connor found, at least in relation to this, CSIS conducted itself quite appropriately, in that they turned whatever information they had over to the RCMP in relation to Mr. Arar and certain other intelligence they had. They turned it over and it was then up to the force to carry that

information, to use that information in the context of an ongoing investigation, as I understand it.

There does have to be a discussion between CSIS and the RCMP in terms of CSIS saying "We have the following intelligence", and the RCMP and CSIS do have to talk together to determine whether that information is sufficiently concrete or substantive, that it is something the RCMP would then pursue in the context of a criminal investigation.

You do have to try to keep these two entities separate and what they do separate. CSIS gathers intelligence. Some of that intelligence may ultimately be transferred to the RCMP for the purpose of an ongoing criminal investigation, which may or may not lead to charges at some point. The vast majority of information collected by CSIS or any intelligence-gathering entity never goes to a law enforcement agency for ongoing investigation. It's not that kind of information that's collected.

The Chair: Thank you.

Monsieur Ménard, you have another question. Go ahead.

[*Translation*]

Mr. Serge Ménard: If I understand the position in which you found yourself, as a member of Cabinet, you appreciated that deporting someone to Syria was a serious decision, one that must be justified in some way. You were unaware of the reasons the US had for acting, but you also knew that if the Americans had good reasons for doing what they did, they should have shared them with the RCMP, since Mr. Arar was a Canadian citizen.

[*English*]

Hon. Anne McLellan: That's my opinion.

[*Translation*]

Mr. Serge Ménard: You knew that the RCMP had shared information with US authorities before making this decision. What you did not know was that this information was erroneous.

[*English*]

Hon. Anne McLellan: Yes.

[*Translation*]

Mr. Serge Ménard: You placed your trust in Commissioner Zaccardelli when he was RCMP Commissioner. I'm aware of the relationship between a chief of police and a minister. There are things that a minister must not know, things that he may or may not know, and things that he must know. Had the Commissioner been in possession of any information, would that information have fallen into the category of things that a minister must know?

I'm talking about the fact that erroneous information was conveyed and may have influenced the decision made by US authorities.

[*English*]

Hon. Anne McLellan: My own view is that if the commissioner knew that erroneous information had been given to the United States, when I became Minister of Public Safety, that, in my opinion, is something I should have been told.

[Translation]

Mr. Serge Ménard: Would that have affected your confidence in Commissioner Zaccardelli?

[English]

Hon. Anne McLellan: I would want to know more about what the commissioner exactly knew and when. He is coming back here to you, and I will be listening very carefully as to when he knew erroneous information had been provided to the Americans. Certainly, again, my view is that had he known—or others, as far as that goes—that erroneous information had been provided to the United States, he should have told me that.

• (1040)

[Translation]

Mr. Serge Ménard: Had you known that, as a member of Cabinet, perhaps you could have used this information in your talks with Syria to convince them to set Mr. Arar free. You might have been able to argue that Mr. Arar was in Syria because of erroneous information passed along to the Americans. You could have asked that Mr. Arar be released.

[English]

Hon. Anne McLellan: I would have thought, had one known there was erroneous information communicated that might have in some way influenced either the United States or Syria, in terms of continuing to hold him, that it should have been made clear to the Syrians that erroneous information had originally been provided to the United States.

Now, you and I both know that whether or not the Syrians would have acted upon that fact is a different question. But clearly, had we known there was erroneous information, then it is something, I would obviously think, you would put into play with the Syrians and say, look, we hope you understand that Mr. Arar has been misdescribed in original information provided to the United States. That, one presumes, would have helped buttress the request being made by the Minister of Foreign Affairs and ultimately the Prime Minister that Mr. Arar be returned home.

[Translation]

Mr. Serge Ménard: You and I both know that if the Syrians sometimes act as we would not, it's not really out of spitefulness but more because they hope—

[English]

Hon. Anne McLellan: No, that's right.

[Translation]

Mr. Serge Ménard: —that they are detaining someone who can provide them with information to advance their investigation. If they're convinced that this individual cannot give them that information, they will release him more quickly.

[English]

The Chair: Thank you.

Do you have a response to that?

Hon. Anne McLellan: No, I think I agree with that.

The Chair: Mr. Comartin, you indicated you might have a supplementary question.

Mr. Joe Comartin: I just want to pursue that same line of questioning, Ms. McLellan, with regard to this scenario. Assuming Commissioner Zaccardelli was not informed—and Justice O'Connor in his report indicates that the senior officers of A Division were not informed of this misleading information having been given to the U. S. side.... Going back to the question you had earlier about discipline and accountability, we are told that every single member of the A Division has been promoted and that a number of the officers below the senior officers have also been promoted, and none has been disciplined.

In the context of the information I referred to earlier—what was going on in the media in terms of these leaks, and what was being said by the Americans about information coming from Canada—do you not agree that if we're going to change the culture, there has to be some discipline at some level, there has to be some accountability somewhere, if we're going to change that culture?

Hon. Anne McLellan: Well, I think accountability is key, as I've already said. I think it can take many forms. You don't change a culture. You can change a culture in many ways, one of which is by moving people out and other people in. One is through training, and so on. I do agree that ongoing training is key. We need a culture where protocols are understood and respected, where the necessity for caveats and the testing of reliability become ingrained in any information-sharing exercise. Whether or not that also entails the disciplining of individual members of a unit, or the force, I think is a more difficult question.

I do go back to the fact that Mr. Justice O'Connor concluded there was no intentional action on the part of the RCMP to harm Mr. Arar, and that misinformation was in fact provided, which came about because certain processes weren't followed. But having said that, there was no malice directed toward Mr. Arar. In fact, Mr. Justice O'Connor concluded that no Canadian official was complicit in his deportation.

So I think you can't deal with the issue of discipline of an individual officer or officers without keeping in mind that context. I would say yes, if there were evidence that someone had deliberately misrepresented a situation in order to do Mr. Arar deliberate harm, absolutely, that would be an enormous breach.

• (1045)

Mr. Joe Comartin: We're talking about omission here.

Hon. Anne McLellan: Yes.

Mr. Joe Comartin: We're talking, as Mr. Ménard has suggested, about the point that having that information at your level, at Mr. Graham's level, might have made a difference. Having that information available at the ministerial level would have provided you an opportunity to set the record straight, and not further damage Mr. Arar's reputation.

Hon. Anne McLellan: That's right. Had we known—

Mr. Joe Comartin: I don't think we're demanding of our public servants at that level a standard that is unreasonable—in that context.

Hon. Anne McLellan: No, I agree. If a mistake has been made and if someone's reputation and/or physical well-being is at stake, it is incumbent, I believe, on whoever it is, including ministers and prime ministers and members of Parliament, to acknowledge the mistake and try to fix it as quickly as possible.

Mr. Joe Comartin: And without that information being shared all the way up to the ministerial level, it's going—

Hon. Anne McLellan: Then you can't do that.

Mr. Joe Comartin: Thank you, Mr. Chair.

The Chair: You're done? Thank you very much.

No more questions?

Before we adjourn, I would like to thank you very much, Ms. McLellan, for coming to the committee. We appreciate your testimony. I think there are no further questions.

Before we adjourn, I was asked to make an announcement. Last Wednesday your offices received a copy of correspondence sent to the committee from Jack Kincler, a representative of the Israel-

Canada Chamber of Commerce. He's in town until tomorrow with Mr. Rafi Sela, a senior partner with AR Challenges, who, Mr. Kincler informs us, is an expert on matters of homeland security and public safety. He will be presenting today at a conference entitled "Global Approaches to Security and Technology Strategies". He's offered to meet with interested members of the committee. I thought the best way to handle this is simply to let you know about it. They're interested in meeting you during their visit, or future visits. He has asked me to encourage you to contact him. If you're not able to do it this time, he may be back.

There's no more business to discuss.

This meeting is adjourned.

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