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Commissioner Frank Iacobucci
Internal Inquiry into the Action of Canadian Officials in Relation to Abdullah Almalki,
Ahmad Abou-Elmaati and Muayyed Nureddin

By fax 613 992-2366 and by email

September 17, 2007

Dear Commissioner,

We are writing this letter in response to John Laskin's most recent letter to us, dated August 30, 2007. You had asked Mr. Laskin to write to us in response to our August 22nd letter to you.

First, we would like to note that since receiving Mr. Laskin's letter we have been informed by Mr. Terry that you have decided that former RCMP Commission Giuliano Zacardelli will now be interviewed in the near future. That is an issue that we had of course spoken about when we met with you on August 9th, and repeated in the annex to our August 22nd letter. We welcome this decision and hope that the other suggested interviewees included in the August 22nd annex will also now be slated for interviews. We made those proposals on the basis of close and careful review of these cases.

We were disappointed that the response to our letter was as brief as it was and did not provide responses to or further clarification of many of the important issues included in that letter. At this point in time we would like to come back to four major points.

1. On the record / Off the record

We continue to be troubled about the exclusive resort to "off the record" meetings and conversations as the means by which we engage with and participate in the inquiry. We were not suggesting that all future exchanges should now be on the record, but rather that it is our intention to request that a significant amount of those exchanges be on the record.

Related to this, we are concerned that from a public perspective there has been nothing "on the record" with respect to the inquiry since the release of your May 31st ruling. There has been no further information provided to the public in the more than three months since that time. We would like to request that a greater amount of information be made available to the public, most particularly by ensuring that it is posted on the Commission's website. At this time we particularly ask that you release:

National Office

312 Laurier Avenue East
Ottawa, ON K1N 1H9
Telephone: 613.744.7667
Fax: 613.746.2411
Email: info@amnesty.ca

Toronto Office

14 Dundonald Street
Toronto, ON M4Y 1K2
Telephone: 416.363.9933
Fax: 416.363.3103
Email: toronto@amnesty.ca

Pacific Regional Office

430-319 W. Pender St.
Vancouver, BC V6B 1T4
Telephone: 604.294.5160
Fax: 604.294.5130
Email: pro@amnesty.ca

- a list of those individuals who have been interviewed to date, recognizing that the personal identity of CSIS officials cannot be disclosed;
- a list of those individuals who will be interviewed in future;
- a list of individuals who will be witnesses in *in-camera* or public hearings, again recognizing that the personal identity of CSIS witnesses cannot be disclosed;
- an updated schedule outlining the next steps in the process; and
- the dates and nature of hearings and other sessions that will be open to the public.

Providing this information is an essential step in assisting the public, including media, to understand and follow the inquiry and is therefore, in our view, very much in the public interest. We do not believe that this is information that would be subject to a national security confidentiality claim and therefore hope that it can be released without delay.

2. Public hearings

Mr. Laskin's letter indicates that you will advise in due course with respect to public hearings. We remain deeply concerned that there have been only two public hearings, both at the outset of the process, dealing with standing and the rules of procedure. While we recognize that your terms of reference require an internal process, we are also aware that paragraph (e) of the Terms of Reference authorizes you to "conduct specific portions of the Inquiry in public if [you are] satisfied that it is essential to ensure the effective conduct of the Inquiry."

We have previously submitted to you that given the importance of the issues at stake in this inquiry and given the many ways in which the confidence of Canadians in the integrity and effectiveness of national security investigations has been shaken in recent years, it is vital that some of your proceedings be conducted in public. We believe that should include the testimony of key witnesses, in addition to sessions that may explore policy issues and ultimately the stage of final submissions.

We are not suggesting that these sessions should include witnesses or information where you believe there is a genuine question of national security confidentiality. But as was successfully demonstrated in the Arar Inquiry, it is possible to conduct a significant amount of an inquiry of this nature in public, even when there is also substantial information that remains shielded by national security confidentiality claims. That phase of the Arar Inquiry went far, in our view, to increasing public engagement with the inquiry process. That, of course, is of great benefit to the "effective conduct of the Inquiry," particularly in the extent to which it increases the level of public understanding of the issues when the report is eventually released.

Again, we urge you to indicate that there will be public hearings and to provide details about such sessions at an early date.

3. Redacted documents

When we met on August 9th and again in our August 22nd letter we urged that you identify a number of key documents that could be subjected to any necessary redaction and then released publicly. The lack of documentation to date has posed a significant obstacle to the ability of the legal teams for Messrs. Almalki, Abou-Elmaati and Nureddin as well as the intervening organizations to engage with the process and look ahead to submissions. In our view, a reasonable compromise would be for you to identify a number of important documents for redaction and release. We hope to hear more about this soon. In the meantime, we will begin to identify some documents that we feel are key, and would help inform our contributions to this process.

4. Interviews about torture

We are aware that there is disagreement among the legal teams for the three men, government lawyers and the Commission about the extent to which certain documents should be released to the government as part of the process of interviewing the three men about their experiences of torture in Syria and Egypt.

We understand that you have convened a meeting with the legal teams and government lawyers on September 17th. If the issue is not successfully resolved at that time and if it is then felt necessary to hold a hearing on this particular subject we strongly urge that any such hearing be held in public. We do not see any national security confidentiality issues at stake here and feel instead that the public interest here should militate in favour of a public hearing.

Thank you for your continued attention to our concerns. We are hoping that our meeting with your counsel can be organized in the very near future.

Sincerely,



Alex Neve
Secretary General
Amnesty International Canada

On behalf of:
Amnesty International
British Columbia Civil Liberties Association
Canadian Arab Federation
Canadian Council for American Islamic Relations
Canadian Muslim Civil Liberties Association
International Civil Liberties Monitoring Group

cc. Barbara Jackman, Hadayt Nazami, John Norris, Paul Copeland, Jasminka Kalajdzic