

United States Senate

COMMITTEE ON THE JUDICIARY
WASHINGTON, DC 20510-6275

September 22, 2006

The Honorable Alberto Gonzales
Attorney General
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Attorney General Gonzales:

I write to inquire again about the rendition of Maher Arar, a Canadian and Syrian citizen, from the United States to Syria in 2002. I have made several inquiries to your predecessor and other officials in the Bush Administration about Mr. Arar's case over the years, with no satisfactory response.

In 2002, Mr. Arar was stopped by immigration officials at John F. Kennedy International Airport as he was attempting to change planes on his flight home to Canada from vacation in Tunisia. Press reports at the time indicated that Mr. Arar was not provided legal counsel because he was not an American citizen. Mr. Arar also repeatedly told U.S. officials that he feared he would be tortured if returned to Syria. After being held for two weeks in a federal detention center, Mr. Arar was handed over to U.S. intelligence officials who then flew him to Jordan and transported him to Syria. He was released in 2003 and returned to Canada, after more than 10 months of imprisonment in Syria. Syrian officials found no evidence that he had any connection to terrorism.

As you know, earlier this week a Canadian commission charged with investigating Mr. Arar's deportation to Syria, concluded that Canadian intelligence agents falsely labeled Mr. Arar as a threat and that U.S. officials placed Mr. Arar on the terrorist "watchlist" unnecessarily. The commission found in its report that while he was detained in Syria for more than 10 months, Mr. Arar was "interrogated, tortured and held in degrading and inhumane conditions" to such a degree that he falsely confessed to attending a terrorist training camp in Afghanistan.

Furthermore, public reports indicate that the United States "refused to cooperate with the commission" and denied requests for documents and testimony surrounding the case.

The Department of Justice has declined to answer my prior inquiries about Mr. Arar's case other than to say that the matter was the subject of ongoing litigation, and the Department could not comment.

However, in light of the report from Canada's Arar Commission, you recently publicly commented on this matter. During a press conference earlier this week, when asked if the Department of Justice owes Mr. Arar an apology, you responded:

We were not responsible for [Mr. Arar's] removal to Syria, I'm not aware that he was tortured, and I haven't read the Commission report. Mr. Arar was deported under our immigration laws. He was initially detained because his name appeared on terrorist lists, and he was deported according to our laws.

A clarification was quickly issued Wednesday by the Justice Department, saying that you "had [your] timeline mixed up," and that you "forgot that at the time of Mr. Arar's deportation, such matters were still handled by the Immigration and Naturalization Service," not the Department of Homeland Security where deportation matters are currently held, according to news reports.

You also said in your press conference that Mr. Arar's transfer to Syria was a deportation, not a rendition:

And even if it was a rendition, we understand as a government what our obligations are with respect to anyone who is rendered by this government to another country, and that is that we seek to satisfy ourselves that they will not be tortured. ... And if in fact he had been rendered to Syria, we would have sought those same kind of assurances, as we do in every case.

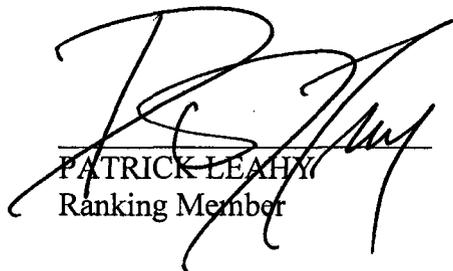
Since you have spoken publicly about this matter, I trust that you will now be able to provide a complete explanation for the United States government's actions in relation to Mr. Arar. I request that you please provide detailed answers to the following questions:

1. If, in fact, Mr. Arar was deported, as you have asserted, why was it necessary to deport him, since he had a Canadian passport and was on his way back to Canada?
2. You said that this was a deportation, not a rendition. If so, given that Mr. Arar, a Canadian citizen, resides in Canada and was traveling home to Canada when he was detained at the airport, why did United States officials choose not to turn him over to Canadian authorities or deport him to Canada? Why was Mr. Arar deported instead to Syria, which makes less sense, is more logistically difficult, and costs more?
3. Was Mr. Arar denied access to an attorney while in United States custody, as he has alleged? Was he given access to Canadian consular officials while in United States custody?
4. The Canadian commission examining this case found that the Canadian intelligence labeling Mr. Arar a threat was faulty and that he was unnecessarily placed on our government's terrorist watchlist. On what intelligence and what authority was Mr. Arar originally held? Has the Justice Department reviewed the intelligence that provided the basis for holding him? What was the result of any such review?

5. Under U.S. law, non-citizens who express concerns about torture if removed are entitled to an evaluation of their claim before being removed. Under the specific regulations that were likely applied to Mr. Arar's removal, there is an explicit prohibition against returning someone to a country where there are substantial grounds for believing he would be subjected to torture. Did Mr. Arar tell United States officials, as he has claimed, that he would be tortured if taken to Syria? Was that claim evaluated? What were the results of any such evaluation? What process was used, if any, to determine the likelihood that Mr. Arar would be subject to torture if removed to Syria?
6. Were any assurances in fact given by Syria that it would not torture Mr. Arar? If so, what were they?
7. Canada's Arar Commission concluded that he was tortured in Syria and held in degrading and inhumane conditions. Has the United States attempted to determine whether these conclusions are correct?
8. Why did the United States government apparently choose not to cooperate with Canada's investigation?
9. If the commission's conclusions are correct, then any assurances given by Syria that it would not torture Mr. Arar were dishonest, and Syria's conduct was consistent with its past record of engaging in torture. What steps has the United States government taken to ensure that others who are the subject of rendition, or deportation, will not be tortured, regardless of any assurances given by governments with a history of torturing prisoners?
10. Please provide a full explanation of the United States government's conduct in connection with the arrest, detainment, rendition, and/or deportation of Mr. Arar, along with any investigation the government has conducted about the case and any cooperation the United States government has provided, or declined to provide, to foreign governments investigating the case.

Thank you for your prompt answers to these questions.

Sincerely,



PATRICK LEAHY
Ranking Member

*I need an answer as soon
found to receiving it*

PL