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Torture Victim Had No Terror Link, Canada Told U.S.

By SCOTT SHANE

WASHINGTON, Sept. 24 — When the United States sent Maher Arar to Syria, where he was tortured for months, the deportation order stated unequivocally that Mr. Arar, a Canadian software engineer, was a member of Al Qaeda. But a few days earlier, Canadian investigators had told the F.B.I. that they had not been able to link him to the terrorist group.

That is one of the disclosures in the 1,200-page report released last week after a two-year Canadian investigation of Mr. Arar's case found him to be innocent of any terrorist ties. The report urges the Canadian government to formally protest the American treatment of Mr. Arar, a recommendation Canadian officials are considering.

Mr. Arar, 37, who now lives in British Columbia, has a lawsuit against United States officials and agencies that is on appeal, and he has demanded an explanation for his treatment from the Bush administration.

A close reading of the Arar Commission report offers a rare window on American actions in the case, describing seemingly flimsy evidence behind the American decision in 2002 to send Mr. Arar to a country notorious for torture, a deliberate attempt by American officials to deceive Canada about where Mr. Arar was, and lingering confusion among top American officials about the two countries' roles in the case.

President Bush earlier this month acknowledged for the first time that high-level people suspected of being terrorists had been held in secret prisons overseas by the Central Intelligence Agency. But he and other officials have said nothing publicly about the American practice of rendition, in which dozens of suspects have been seized and turned over for interrogation to other countries, including several known to engage routinely in torture.

Cases like that of Mr. Arar would not be affected by the compromise legislation on detainee treatment worked out between the White House and Republican senators last week, since it would have no effect on interrogation methods used by other countries. In fact, the proposed bill would strip non-Americans held overseas under United States control of the right to challenge their detention in federal court.

"It's a huge hole in what Congress is doing," said Michael Ratner, president of the Center for Constitutional Rights in New York, which represents Mr. Arar in his lawsuit. "The government can still send people secretly to other countries where they'll be tortured."

For nearly four years, the United States government has refused to make public any information on the case of Mr. Arar, which has become an international symbol of American excesses in the campaign against terrorism. The Bush administration

refused to cooperate with the Canadian commission, so many questions about American actions and motives remain unanswered.

But Mr. Arar's case is more public than other cases of rendition, because he was detained inside the United States and legally deported, creating a modest paper trail. The three-volume report describes Canadian contacts with American officials in meticulous detail, offering by far the fullest account of any rendition case to date.

The commission's report says inexperienced Canadian police officials originally passed inaccurate information to the United States linking Mr. Arar to terrorism, based largely on his acquaintance with other men under suspicion.

But in the days after Sept. 26, 2002, when Mr. Arar was detained while changing planes at Kennedy International Airport in New York City, a flurry of calls and faxes between the countries included more equivocal information.

An Oct. 4 fax to the F.B.I. from Canadian counterterrorism officials said that they "had yet to complete either a detailed investigation of Mr. Arar or a link analysis on him," and that "while he has had contact with many individuals of interest to this project we are unable to indicate links to Al Qaeda."

That was particularly significant because the commission concludes that all, or virtually all, of the United States' knowledge of any threat posed by Mr. Arar came from the Canadians.

The next day, on Saturday, Oct. 5, a Royal Canadian Mounted Police official spoke by phone with an unidentified F.B.I. official. "During this conversation, the FBI official said that the Americans feared they did not have sufficient information to support charges against Mr. Arar," the report says.

The Canadian officer said that likewise, "There was insufficient evidence to charge Mr. Arar in Cana-

da." Canadian officials told the Americans that if they allowed Mr. Arar to travel home to Canada, he would be kept under surveillance. But by then the Americans were already secretly working on the Syrian option, a legal possibility because Mr. Arar retained his citizenship in Syria, where he was born.

"The American authorities appear to have intentionally kept Canadian officials in the dark about their plans to remove Mr. Arar to Syria," the report says.

Despite the uncertain report from Canada on Mr. Arar and terrorism, on Oct. 7, an Immigration and Naturalization Service official ruled that

New details about U.S. behavior that led to imprisoning an innocent man.

evidence "clearly and unequivocally reflects that Mr. Arar is a member of a foreign terrorist organization, to wit, Al Qaeda." At 4 a.m. the next day, Mr. Arar was bundled aboard a Gulfstream jet that flew him to Jordan, from which he was driven to a prison in neighboring Syria.

Paul J. J. Cavalluzzo, lead counsel to the Arar Commission, said he found the American actions inconsistent. "On Saturday," Mr. Cavalluzzo said, "you have the F.B.I. saying, 'We don't have enough to charge him.' On Monday, he's a member of Al Qaeda. Well, if he's a member of Al Qaeda, in your country he can be charged."

Even after Mr. Arar arrived in Syria, American officials did not tell their Canadian counterparts. Only two weeks later, on Oct. 21, did Canada get confirmation, when a Syrian military intelligence officer phoned

the Canadian ambassador in Damascus to say he was in custody.

Mr. Arar spent 10 months in the custody of Syrian interrogators who beat him repeatedly with a heavy metal cable and held him in a dank cell scarcely larger than a coffin, according to the commission report. In October 2003, he was released and returned to his wife and children in Canada.

But some top American officials appear to have been misinformed about the deportation decision. After Jean Chrétien, then Canadian prime minister, said publicly that the United States had decided unilaterally to send Mr. Arar to Syria, the Canadian ambassador was summoned to the National Security Council and scolded by Frances Townsend, the deputy national security adviser, who said it had been a "joint decision," the report says.

Colin L. Powell, then the secretary of state, had also suggested publicly that the Canadians were complicit in the Syria deportation. But on Dec. 1, 2003, Mr. Powell called Bill Graham, the Canadian foreign minister, to say the United States had not consulted Canada about the decision.

"I was mistaken," Mr. Powell told Mr. Graham, the report says.

The Canadian judge who led the inquiry, Dennis R. O'Connor, urged a formal protest over the American conduct. Peter MacKay, the Canadian foreign affairs minister, said Thursday it was too early to decide on a protest but added that there was an "urgent need" for talks on the issues raised by the case.

A State Department spokeswoman, Janelle Hironimus, said Friday that she knew of no plans for such talks. She said the Bush administration had declined to cooperate with the Arar Commission because its "mandate was to investigate and report on the actions of Canadian officials, and Canadian authorities were therefore the most appropriate entities to respond."

A spokeswoman for the Department of Justice, Tasia Scolinos, said that she could not respond in detail to the commission's findings but that the United States government "removed Mr. Arar in full compliance with the law and all applicable international treaties and conventions." She also said the government "sought assurances with respect to Mr. Arar's treatment" in Syria.

Mr. Cavalluzzo, the commission counsel, noted that the report held Canadian officials accountable for many lapses. But in an interview on Friday from Toronto, he said he remained "troubled" by American actions, chiefly the decision to turn Mr. Arar over to a government whose promises not to torture him had no credibility.

"Even at this time, when terrorism is a real danger," he said, "this case points out how important it is to preserve the democratic rights we have cherished for centuries."



Dave Chan/Reuters

Maher Arar, at a news conference last week in Ottawa, was tortured in Syria. The United States had sent him there, saying he was a terrorist.