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Rendition Case Under Bush Gets Obama Backing

By [EVAN PEREZ](#)

WASHINGTON -- The Obama administration backed the Bush administration's arguments in a lawsuit involving the practice of seizing terror suspects abroad and sending them to third countries for questioning.

The case involves five men who claim U.S. operatives abducted them and sent them to be tortured in other countries. The men are suing a unit of [Boeing Co.](#), which they say provided aircraft to the Central Intelligence Agency for the "extraordinary rendition" program. Boeing declined to comment on the case.

Monday, Justice Department lawyers told the Ninth Circuit federal appeals court in San Francisco that the government believes state secrets and national security would be put at risk if the court allows the suit to proceed. That is the same argument the department used under President George W. Bush.

The move came as Attorney General Eric Holder ordered a review of all assertions of the state-secrets privilege, aiming to ensure that the argument isn't used to hide from Americans information they have a right to know, the Justice Department said.

While President Barack Obama has promised to close the Guantanamo Bay prison and revoke other Bush antiterror policies, he is moving more cautiously on renditions. The practice dates back at least to the Clinton administration, and Obama officials have signaled they will continue the policy while seeking assurances that suspects aren't tortured.

"This is not change. This is definitely more of the same," said Anthony Romero, executive director of the American Civil Liberties Union, whose lawyers argued against the government in the appeal on Monday.

Liberal supporters of Mr. Obama are watching how the administration handles other polarizing issues, including calls for possible criminal prosecutions of Bush officials for tactics that critics say led to torture of terror detainees. Michael Ratner, president of the Center for Constitutional Rights, said the Justice Department's move suggests that "the chances of bringing a criminal case are getting lower and lower." Mr. Obama has said he wants to look forward, not backward.

The lawsuit is against Boeing's Jeppesen Dataplan Inc. unit. A district-court judge sided with the government last year. The men's case likely would be crippled if that decision holds. Justice Department officials declined to discuss specifics of the case.

Also Monday, Sen. Patrick Leahy (D., Vt.) called for creation of a "truth and reconciliation" commission to investigate the Justice Department under the previous administration. Such a commission, Mr. Leahy said, could investigate legal policies that paved the way for the National Security Agency's warrantless-surveillance program, the politically tainted firings of some U.S. attorneys and the legal opinions drafted to govern interrogation methods.

Texas Rep. Lamar Smith, the top Republican on the House Judiciary Committee, dismissed calls for a commission.

"President Obama promised to usher in an era of 'change' and bipartisan harmony," he said. "Unfortunately, the continued effort by some Democrats to unjustly malign former Bush administration officials is politics as usual."

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