

**UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF NEW YORK**

AMNESTY INTERNATIONAL USA, CENTER
FOR CONSTITUTIONAL RIGHTS, INC. and
WASHINGTON SQUARE LEGAL SERVICES,
INC.,

Plaintiffs,

v.

CENTRAL INTELLIGENCE AGENCY,
DEPARTMENT OF DEFENSE, DEPARTMENT
OF HOMELAND SECURITY, DEPARTMENT
OF JUSTICE, DEPARTMENT OF STATE, AND
THEIR COMPONENTS

Defendants.

CIVIL ACTION DOCKET No. []

COMPLAINT

PRELIMINARY STATEMENT

1. This is an action under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552 *et seq.*, for injunctive and other appropriate relief, and seeking the immediate processing and release of agency records requested by Plaintiffs from Defendants Central Intelligence Agency (“CIA”), Department of Defense (“DOD”), Department of Homeland Security (“DHS”), Department of Justice (“DOJ”), Department of State (“DOS”), and their components.
2. Since 2001, the United States Government has orchestrated the rendition and secret detention of individuals in connection with the “War on Terror.”
3. Rendition and secret detention typically involve the apprehension of individuals by local security forces, often with the help of U.S. agents, followed by stripping, handcuffing, shackling, blindfolding, and hooding of the detainees in preparation for flights by which they are transferred

to foreign destinations such as Syria, Jordan or Egypt for detention and interrogation, sent to secret U.S. facilities, or a combination of both. Detention in both foreign destinations and secret U.S. facilities involves interrogation techniques such as sleep deprivation, prolonged solitary confinement and sensory manipulation.

4. The use of both rendition and secret detention has been officially acknowledged at the highest levels of the United States Government. On December 5, 2005, Secretary of State Condoleezza Rice stated that the United States uses “rendition” to transport terrorism suspects to third countries for interrogation, detention or to bring individuals “to justice.” On September 6, 2006, President George W. Bush acknowledged that “a small number of suspected terrorist leaders and operatives captured during the war have been held and questioned outside the United States, in a separate program...” and revealed that this program had been reviewed and approved by the CIA and DOJ.

5. Amnesty International USA (“Amnesty”), the Center for Constitutional Rights, Inc. (“CCR”) and Washington Square Legal Services, Inc. (“WSLS”) (collectively “Plaintiffs”) have submitted FOIA requests (“Plaintiffs’ Requests”) to Defendants seeking records concerning rendition and secret detention of individuals in the “War on Terror.”^{1/} Plaintiffs’ Requests seek records related to evaluations and authorizations, policies and procedures, identities of individuals and locations, activities of private contractors and non-governmental actors, and treatment of, and injuries sustained by, individuals transferred or detained.

^{1/} The CCR submitted a FOIA request in December 2004. Amnesty and WSLS submitted two FOIA requests in April 2006. Due to the similarity of the CCR Request and the Amnesty and WSLS Requests, CCR, Amnesty and WSLS (collectively “Plaintiffs”) join in this single action for injunctive relief. The CCR Request to DOD Office of Freedom of Information/Security Review is attached as Exhibit A. CCR also filed identical requests with the CIA, DOD and its components, DOJ and its components, and DOS. Amnesty’s and WSLS’ Requests to the CIA are attached as Exhibits B and C. Amnesty and WSLS also filed identical requests with DOD and its components, DHS and its components, DOJ and its components, and DOS.

6. Despite official United States Government acknowledgment of the rendition and secret detention of individuals in connection with the “War on Terror,” as well as widespread reporting on these practices by the media and other sources, Defendants refuse to release, and continue to unlawfully withhold, known documents that are clearly responsive to Plaintiffs’ Requests. Defendants have refused to provide — and in some cases have failed to conduct adequate searches for — documents plainly within the categories of documents sought in Plaintiffs’ Requests. Indeed, the CIA has not substantively responded to Plaintiffs’ Requests in any way even though it has been more than two years since Plaintiff CCR filed its FOIA request.

7. There is a compelling public interest in disclosure of the requested documents concerning the rendition and secret detention of individuals in the “War on Terror.” To vindicate the public’s right to information about government practices and policies, Plaintiffs seek an injunction requiring that Defendants immediately process Plaintiffs’ Requests and release records that are and have been unlawfully withheld.

JURISDICTION AND VENUE

8. This Court has jurisdiction over this action pursuant to 5 U.S.C. §§ 552(a)(4)(B) and 552(a)(6)(E)(iii). This Court also has jurisdiction over this action pursuant to 28 U.S.C. §1331 and 5 U.S.C. §§ 701-706. Venue properly lies in this District pursuant to 5 U.S.C. § 552 (a)(4)(A) and (B).

PARTIES

9. Plaintiff Amnesty International USA (“Amnesty”) is the United States Section of Amnesty International. Amnesty is a non-governmental organization and a world-wide movement of members who campaign for internationally recognized human rights. Amnesty is dedicated to bringing about a world in which every person enjoys all of the human rights

enshrined in the Universal Declaration of Human Rights and other international human rights instruments. To accomplish this goal, Amnesty engages in research and action campaigns. At the heart of every campaign is the dissemination of information about particular human rights abuses that Amnesty has documented. Amnesty expends extensive resources researching alleged abuses to generate reports and shape its campaigns. Amnesty publishes reports, press briefings, newsletters, and urgent action requests informing the public about human rights, including the prohibition on torture and the prohibition on disappearances. Amnesty also disseminates information through its website <www.amnestyusa.org>.

10. Plaintiff Center for Constitutional Rights (“CCR”) is a New York-based legal and public education not-for-profit organization that engages in litigation, legal research, and the production of publications in fields of civil and international human rights, including extensive materials on detainees and others apprehended after September 11, 2001. CCR publishes regular newsletters, know-your-rights handbooks, and other informational materials for public dissemination. These materials are also available through CCR’s Development and Outreach Departments. CCR operates a website <www.ccr-ny.org>, that addresses the issues on which the Center works. The CCR website includes material on topical civil and human rights issues and material concerning CCR’s work. All of this material is freely available to the public.

11. Plaintiff Washington Square Legal Services (“WSLS”) is a not-for-profit corporation that houses the clinical program of the New York University (“NYU”) School of Law, of which the International Human Rights Clinic is a part. The Clinic is also a project of the Center for Human Rights and Global Justice (“CHRGJ”) and an official program at NYU School of Law, composed of students and directed by clinical professors, who engage in research and advocacy on human rights issues. CHRGJ is a research center at NYU School of Law. CHRGJ aims to advance

human rights and respect for the rule of law through advocacy, scholarship, education and training. CHRJ publishes reports and operates a website <www.chrgj.org> discussing human rights issues.

12. Defendant CIA is a Department of the Executive Branch of the United States Government and is an agency within the meaning of 5 U.S.C. § 552(f)(1).

13. Defendant DOD is a Department of the Executive Branch of the United States Government and is an agency within the meaning of 5 U.S.C. § 552(f)(1). Defense Intelligence Agency (“DIA”), Department of the Army (“Army”), Department of the Navy (“Navy”), and Department of the Air Force (“Air Force”) are components of DOD.

14. Defendant DHS is a Department of the Executive Branch of the United States Government and is an agency within the meaning of 5 U.S.C. § 552(f)(1). U.S. Immigration & Customs Enforcement, Office of Investigations (“ICE”), U.S. Citizenship & Immigration Services (“CIS”), U.S. Customs & Border Protection (“CBP”), U.S. Coast Guard, Office of Intelligence & Analysis (“OIA”), and Privacy Office are components of DHS.

15. Defendant DOJ is a Department of the Executive Branch of the United States Government and is an agency within the meaning of 5 U.S.C. § 552(f)(1). Office of Information & Privacy (“OIP”), Criminal Division, “Federal Bureau of Investigation (“FBI”), Executive Office for U.S. Attorneys (“EOUSA”), Office of Inspector General (“OIG”), and Office of Intelligence Policy & Review (“OIPR”) are components of DOJ.

16. Defendant DOS is a Department of the Executive Branch of the United States Government and is an agency within the meaning of 5 U.S.C. § 552(f)(1).

FACTS

I. THE U.S. GOVERNMENT'S RENDITION AND SECRET DETENTION OF INDIVIDUALS IN THE "WAR ON TERROR"

17. Since 2001, the United States Government has orchestrated the rendition and secret detention of individuals in connection with the "War on Terror."^{2/}

18. Rendition and secret detention typically involve the apprehension of individuals by local security forces in a foreign country, often with the involvement of U.S. agents. After an initial interrogation by these local and/or U.S. agents, individuals are typically stripped naked; handcuffed, shackled, and blindfolded; have earplugs inserted in their ears and their mouths covered, and are hooded. *See, e.g.,* Committee on Legal Affairs and Human Rights, *Alleged secret detentions and unlawful inter-state transfers involving Council of Europe member states*, Eur. Parl. Doc. 10957 (June 12, 2006); Dana Priest, *Wrongful Imprisonment: Anatomy of a CIA Mistake: German Citizen Released After Months in Rendition*, Wash. Post, Dec. 4, 2005.

19. Individuals are then typically transferred using a variety of aircraft, including civilian or military aircraft, to foreign destinations for further interrogation and detention. This has included transfer to third countries for foreign interrogation and detention (commonly known as "extraordinary rendition"), detention in secret U.S. facilities (e.g., "black site" detention), or a combination of both. *See id.*

A. Transfer to Third Countries for Foreign Interrogation and Detention

20. On December 5, 2005, Secretary of State Condoleezza Rice stated that the United States uses "rendition" to transport terrorism suspects apprehended abroad to third countries for interrogation, detention or to bring them "to justice." Secretary of State Condoleezza Rice,

^{2/} As used in this complaint, the term "rendition" means the transfer of an individual from one government to another either (a) without the benefit of regular transfer procedures such as extradition or immigration proceedings, or (b) through the perversion of such regular procedures. The term "secret detention" means the detention of an individual in an unofficial or unknown place of custody, or the detention of an individual in an official or known place of custody where the fact of the individual's detention is kept hidden or concealed.

Remarks Upon Her Departure for Europe, Dec. 5, 2005. Secretary Rice further stated that “in conducting such renditions, it is the policy of the United States . . . to comply with its laws and comply with its treaty obligations...” and indicated that, “where appropriate, the United States seeks assurances that transferred persons will not be tortured.” *Id.*

21. As part of this practice, the United States Government transfers detainees for foreign interrogation and detention to third countries criticized for their poor treatment of prisoners (e.g. Syria, Jordan, or Egypt). Individuals transferred to third countries for foreign interrogation and detention have reportedly been subjected to ill treatment, such as prolonged solitary confinement, beatings and other abuse — including in cases where assurances were sought by the United States. *See, e.g.*, Deneen L. Brown & Dana Priest, *Deported Terror Suspect Details Torture in Syria; Canadian’s Case Called Typical of CIA*, Wash. Post, Nov. 5, 2003; Dana Priest & Barton Gellman, *U.S. Decries Abuse but Defends Interrogations; ‘Stress and Duress’ Tactics Used on Terrorism Suspects Held in Secret Overseas Facilities*, Wash. Post, Dec. 26, 2002.

22. Rendition to third countries for foreign interrogation and detention reportedly involves all Defendants. *Id.*

B. Transfer to Detention in Secret U.S. Facilities

23. Prior to September 6, 2006, numerous news articles and other reports had disclosed the existence of a U.S. secret detention program. *See, e.g.*, Amnesty International, *United States of America: Below the radar: Secret flights to torture and ‘disappearance,’* Apr. 5, 2006; Brian Ross & Richard Esposito, *Exclusive: Sources Tell ABC News Top Al Qaeda Figures Held in Secret CIA Prisons*, ABC News, Dec. 5, 2005; Human Rights Watch, *List of “Ghost Prisoners” Possibly in CIA Custody* (last updated Dec. 1, 2005); Amnesty International, *United States of America/Yemen: Secret Detention in CIA “Black Sites,”* Nov. 8, 2005. The secret detention

program was reportedly authorized by President Bush in a Presidential Directive or Finding signed on or about September 17, 2001. *See, e.g., Dana Priest, CIA Holds Terror Suspects in Secret Prisons, Wash. Post, Nov. 2, 2005.*

24. On September 6, 2006, President Bush acknowledged that “a small number of suspected terrorist leaders and operatives captured during the war have been held and questioned outside the United States, in a separate program operated by the Central Intelligence Agency.” White House Office of the Press Secretary, *News Release: President Discusses Creation of Military Commissions to Try Suspected Terrorists*, Sept. 6, 2006. On the same day, the Office of the Director of National Intelligence (“DNI”) released a “Summary of the High Value Terrorist Detainee Program” and “Biographies of High Value Terrorist Detainees Transferred to the US Naval Base at Guantánamo Bay” and acknowledged that planning for the program began shortly after September 11, 2001, and that by 2002, its implementation was already underway.

25. In these disclosures, President Bush and the Office of the DNI officially provided selective additional details about secret detention, including the following:

- thousands of people, besides the fourteen whose names have been disclosed, have been captured in connection with the “War on Terror,” yet never sent to Guantánamo;
- the names and biographical information collected from some specific individuals held in the secret detention program;
- individuals have been released from the program, with “many” being “returned to their home countries for prosecution or detention,” and fourteen high-level detainees held in the program were transferred to the U.S. Naval Base at Guantánamo Bay, Cuba on or around September 6, 2006;
- the United States Government has shared information produced by the secret detention program with entities outside the CIA, including allies in the “War on Terror”;
- detainees held in secret detention have been subjected to an “alternative set of interrogation techniques”; and

