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Obama Administration Continues to Abuse ‘National Security’ Defense
Refusal to Disclose Repeats Bush Tactics on Heels of Change in ‘State Secrets’

(September 23, 2009, New York and Washington DC)—In response to the CIA’s refusal to either ‘confirm or deny’ the existence of key torture documents, three human rights groups called on President Obama to hold true to his promise of a transparent era. The groups—Amnesty International USA (AIUSA), the Center for Constitutional Rights (CCR), and the Center for Human Rights and Global Justice (CHR&GJ) at NYU School of Law—made their statement following the CIA’s refusal to acknowledge documents detailing detainee abuse and ‘black site’ detention in the groups’ Freedom of Information Act (FOIA) litigation.

The CIA disclosed that Congress may have an interest in withholding ten documents related to the torture program. One record (CIA Document 15), for instance, is a 28-page document from the Office of Congressional Affairs to the Director of Central Intelligence regarding “prior congressional notifications and briefings,” and includes “26 pages of charts.”

“Now that the CIA has released so much, there is no good justification for continuing to withhold this information carte blanche on ‘national security’ grounds,” said **Tom Parker**, AIUSA Policy Director for (counter) Terrorism and Human Rights. “Today’s move is an abuse of these allowances. By hiding behind this weak justification, the government is violating the very spirit of FOIA just to hide its own embarrassing and illegal behavior.”

For the first time, the CIA released the dates of cable traffic regarding the Office of Legal Counsel (OLC)-approved waterboarding of Khalid Sheikh Mohamed. The 49 cables (CIA Documents 303—351) range from March 1, 2003, to September 24, 2003. The majority of the cables—47 out of the 49—are from March 2003.

However, the CIA has refused to release the actual Mohamed waterboarding documents—or to inform the public of the dates or volume of the other cables regarding

three OLC-approved torture techniques used against Abu Zubaydah: the waterboard, sleep deprivation, and the slap. The CIA has also withheld this information for the use of sleep deprivation and the slap against Mohamed.

In response to requests for cables regarding the use of the “attention shake” against Zubaydah and Mohamed, the CIA asserted that the “attention shake” is “not an interrogation technique employed by the CIA” despite the fact that OLC Memos refer to the authorization of the use of the attention grasp against Zubaydah.

“For our democratic system to work, we must be able to ensure that all members of government follow our laws and adhere to the limits of their power,” said CCR Attorney **Gitanjali S. Gutierrez**. “The only way to do this is through real transparency and responsibility, not further evasion and cover-ups created by secrecy or a play on words.”

The CIA also refused to ‘confirm or deny’ records on former CIA ghost prisoners CHRGJ client Mohamed Bashmilah and Salah Nasser Salim Ali—information that the U.S. shared with the Yemeni government after it asked that country to detain them.

“As the public record on the U.S. secret detention program continues to grow, the government’s persistent secrecy becomes more inexcusable by the day,” said **Jayne Huckerby**, Research Director at CHRGJ. “The Obama Administration should provide the countless individuals who were disappeared—including our client Mohamed Bashmilah—with the basic dignity they have long been denied, starting with an acknowledgment that the U.S. abducted and secretly imprisoned them, without explanation, and without any recourse to justice.”

The refusal comes just weeks after the CIA handed over a number of OLC memos to the groups detailing the CIA’s secret detention, interrogation, and rendition programs. It also comes on the heels of today’s promise from the Department of Justice that it will tighten its ‘state secrets’ standards to increase access to information from the government.

Background

AIUSA, CCR, and CHRGJ have filed FOIA requests with several U.S. government agencies, including the CIA. The groups filed the lawsuit in June 2007 after the agencies failed to respond adequately to the requests. The FOIA litigation seeks information about individuals who are or have been held by the U.S. government or detained with U.S. involvement, as part of the government’s ghost detention, rendition, and coercive interrogation program. The requests also seek information about the government’s legal justifications for the program. Comprehensive information about the identities and locations of prisoners in CIA custody—as well as the conditions of their detention and the specific interrogation methods used against them—has never been publicly revealed. The rights groups charge that this lack of transparency continues to prevent scrutiny by the public or the courts and leaves detainees vulnerable to abuse and torture. Morrison & Foerster LLP serves as co-counsel in the case.

For more information or copies of legal filings in the case and released documents, please

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For more information about the organizations involved, please see their websites: www.ccrjustice.org, www.chrgj.org and www.amnestyusa.org.

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