

Off the Record

U.S. Responsibility for Enforced Disappearances in the “War on Terror”

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Glossary

CIA	U.S. Central Intelligence Agency
FBI	U.S. Federal Bureau of Investigation
9-11 Commission Report	Report of the National Commission on Terrorist Attacks on the United States (2004).
FBI “Most Wanted Terrorists” List	List maintained by the Federal Bureau of Investigation of suspected terrorists sought by the U.S. government.
LIFG	Libyan Islamic Fighting Group
“Rewards for Justice Program”	Program administered by the U.S. Department of State in which the Secretary of State may offer multi-million dollar rewards for information that prevents, frustrates, or favorably resolves acts of international terrorism against U.S. interests worldwide or leads to the arrest or conviction in any country of an individual for the commission of such an act.
“secret U.S. detention facility”	Facility operated by the U.S. government and used to detain individuals without acknowledgement, charge, or notice.
“U.S. Secret Detention Program”	The system of secret apprehension, transfer, and detention of terrorism suspects employed by the U.S. government in the “War on Terror.” The system was acknowledged by President George W. Bush on September 6, 2006.

Executive Summary

On September 6, 2006, President George W. Bush revealed that the United States runs a system of secret detention in the “War on Terror,” but he did not disclose how many individuals were secretly detained. While only the U.S. government knows exactly who remains missing, *Off the Record* provides the most comprehensive list of these individuals, who are believed to have been subject to an enforced disappearance for which the United States bears responsibility.

Based on research by six major human rights groups—Amnesty International, Cageprisoners, the Center for Constitutional Rights, the Center for Human Rights and Global Justice at NYU School of Law, Human Rights Watch and Reprieve—*Off the Record* identifies individuals believed to have been held at some point by the United States in secret sites, all of whom remain missing.

Off the Record provides new information about detainees already identified as “disappeared” (for example, Ali Abdul-Hamid al-Fakhiri, commonly known as Ibn al-Shaykh al-Libi) and names four missing detainees for the first time. It reveals the extent to which the United States illegally uses “proxy detention” to empty its secret sites and demonstrates that far from targeting the “worst of the worst,” the system sweeps up low-level detainees and even involves the detention of the wives and children of the “disappeared,” in violation of their human rights. *Off the Record* also documents allegations concerning the treatment of detainees while in secret detention, including torture and other cruel, inhuman or degrading treatment or punishment. The briefing paper reports on the following individuals:

Individuals whose detention by the United States has been officially acknowledged and whose fate and whereabouts remain unknown:

1. Hassan Ghul
2. Ali Abd al-Rahman al-Faqasi al-Ghamdi (Abu Bakr al Azdi)
3. Ali Abdul-Hamid al-Fakhiri (Ali Abd-al-Hamid al-Fakhiri, Ibn al-Shaykh al-Libi)

Individuals about whom there is strong evidence, including witness testimony, of secret detention by the United States and whose fate and whereabouts remain unknown:

4. Mustafa Setmariam Nasar (Abu Musab al-Suri, Umar Abd al-Hakim)
5. & 6. Two, possibly three, Somalis* [Names Unknown] (one of whom is either Shoeab as-Somali or Rethwan as-Somali)
7. Mohammed Naeem Noor Khan (Abu Talha, Talaha)
8. Abdul Basit
9. Adnan [Last Name Unknown]
10. Hudaifa

* Individuals publicly identified as missing for the first time by human rights groups are indicated by an asterisk. Note that while the detention of two Somali nationals has been previously reported, the possibility that a third Somali national was held in a secret U.S. detention facility has not been explicitly stated.

11. Mohammed [Last Name Unknown] (Mohammed al-Afghani)
12. Khalid al-Zawahiri
13. Ayoub al-Libi
14. Abu Naseem
15. Suleiman Abdalla Salim (Suleiman Abdalla, Suleiman Abdalla Salim Hemed, Suleiman Ahmed Hemed Salim, Issa Tanzania)
16. Yassir al-Jazeera (Yasser al-Jaziri, Abu Yasir al-Jaziri, Abu Yassir Al Jazeera, Yasser al-Jazeera)
17. Mohammed Omar Abdel-Rahman (Asadallah)
18. Majid [Last Name Unknown] (Adnan al-Libi, Abu Yasser)*
19. Hassan [Last Name Unknown] (Raba'i)*
20. [First Name Unknown] al-Mahdi-Jawdeh (Abu Ayoub, Ayoub al-Libi)*
21. Khaled al-Sharif (Abu Hazem)*

Individuals about whom there is some evidence of secret detention by the United States and whose fate and whereabouts remain unknown:

22. Osama bin Yousaf (Usama Bin Yussaf, Usama bin Yusuf, Usamah bin-Yusuf)
23. Osama Nazir
24. Sharif al-Masri (Abd-al-Sattar Sharif al-Masri)
25. Qari Saifullah Akhtar (Amir Harkat-ul-Ansar Qari Saifullah)
26. Mustafa Mohammed Fadhil (Moustafa Ali Elbishy, Hussein, Hassan Ali, Khalid, Abu Jihad)
27. Musaab Aruchi (Mosabir Aroochi, Masoob Aroochi, Abu Mosa'ab al-Balochi, Abu Mosa'ab Aroochi, Musaad Aruchi, al-Baluchi)
28. Ibad Al Yaquti al Sheikh al Sufiyan
29. Walid bin Azmi
30. Amir Hussein Abdullah al-Misri (Fazal Mohammad Abdullah al-Misri)
31. Safwan al-Hasham (Haffan al-Hasham)
32. Jawad al-Bashar
33. Aafia Siddiqui
34. Saif al Islam el Masry
35. Sheikh Ahmed Salim
36. Retha al-Tunisi
37. Anas al-Libi (Anas al-Sabai, Nazih al-Raghie, Nazih Abdul Hamed al-Raghie)
38. [First Name Unknown] al-Rubaia
39. Speen Ghul

Introduction

This briefing paper presents information about at least 39 detainees—all of whom are still missing—who are believed to have been held in secret sites run by the United States government overseas. The paper provides basic information about these individuals, including facts concerning the circumstances of their apprehension, evidence concerning U.S. involvement in their detention, and any information available concerning their current fate and whereabouts.

In many cases, the current fate and whereabouts of detainees included on the list are completely unknown. In other cases, some information has emerged in the press or through research and investigation. In all cases, official silence has created grave uncertainty and the U.S. government has an obligation to clarify the fate and whereabouts of the individuals it has detained.

These individuals are victims of enforced disappearance as defined by international human rights law. Enforced disappearances occur when there is an:

...arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law.¹

Enforced disappearances involve violations of treaties binding on the United States, including the International Covenant on Civil and Political Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. They also violate international humanitarian law.

Because the fate of a person who is “disappeared” remains unknown, international law considers an enforced disappearance to be a continuing violation—it is ongoing until the fate or whereabouts of the person becomes known. In addition to the harm done to the person, enforced disappearances cause continued suffering for family members.

U.S. Detentions in the “War on Terror”

The U.S. government has constructed a wide-ranging detention system for terrorism suspects and others it considers to be implicated in the “War on Terror.” This system includes the informal transfer of suspected terrorists (rendition), detention in both acknowledged and secret U.S.-controlled detention facilities outside the United States, and detention in foreign-

¹ International Convention for the Protection of All Persons from Enforced Disappearance, art. 2, *opened for signature* Feb. 6, 2007, available at <http://www.ohchr.org/english/law/disappearance-convention.htm>.

controlled facilities at the behest of the U.S. government (proxy detention). Each of these elements is characterized by a lack of procedural safeguards and substantive rights protections (e.g. uncharged detention and detention without opportunity for review) and violates international law. Many detainees apprehended by the United States or its allies are informally transferred several times and may be placed in secret detention in multiple sites.

Scope of Briefing Paper

This briefing paper focuses on one subset of detainees: individuals believed to have been held at some point in secret sites run by the U.S. government overseas who are still missing. A handful of individuals who were detained in such “black sites” have since been released; their cases are not featured in this briefing paper. Nor are the cases of the fourteen “high-value” detainees transferred to Guantánamo Bay from CIA custody in September 2006. Those detainees were sent to Guantánamo Bay in advance of a public statement by President George W. Bush acknowledging the U.S. Secret Detention Program on September 6, 2006. President Bush asserted that the sites were then “empty,” but pointedly left open the possibility of using the Program again. He did not clarify the fate and whereabouts of any of the other individuals who had been held in the Program. The transfer of Abd al-Hadi al-Iraqi from secret CIA custody to Guantánamo Bay in April 2007 demonstrated that the system was still operating. Those individuals named in this briefing paper show that all of those secretly detained have not been accounted for.

Methodology and Sources of Information

Because of the nature of the U.S. Secret Detention Program, there is no comprehensive list of individuals who have been held in the Program. The information in this briefing paper is drawn from investigations carried out by the six organizations² that authored it, and includes

² These organizations—Amnesty International, Cageprisoners, the Center for Constitutional Rights, the Center for Human Rights and Global Justice at NYU School of Law, Human Rights Watch and Reprieve—have been at the forefront of addressing U.S.-led “disappearances,” including through representation of individuals detained in the “War on Terror,” advocacy, investigations, and public reporting. The Center for Constitutional Rights (www.ccr-ny.org), the Center for Human Rights and Global Justice (www.chrgj.org) and Reprieve (www.reprieve.org.uk) represent individuals detained by the United States in the “War on Terror,” including detainees at Guantánamo Bay formerly in secret prisons, and those who have been extraordinarily rendered. Amnesty International (www.amnesty.org), Cageprisoners (www.cageprisoners.com), the Center for Human Rights and Global Justice, Human Rights Watch (www.hrw.org) and Reprieve have investigated and reported on secret detention and rendition and have carried out advocacy with the U.S. and other governments to put an end to these practices. See, e.g., Amnesty International, *United States of America: Below the radar: Secret flights to torture and ‘disappearance’* (Apr. 2006), *United States of America/Yemen: Secret Detention in CIA “Black Sites”* (Nov. 2005); Cageprisoners, *Beyond the Law: The War on Terror’s Secret Network of Global Detentions* (2006); Center for Human Rights and Global Justice, *Fate and Whereabouts Unknown: Detainees in the “War on Terror”* (Dec. 2005); Human Rights Watch, *Ghost Prisoner: Two Years in Secret CIA Detention* (Feb. 2007), *List of “Ghost Prisoners” Possibly in CIA Custody* (last updated Dec. 1, 2005), *The United States’ “Disappeared”: The CIA’s Long-Term “Ghost Detainees”* (Oct. 2004).

information gathered from public sources, government officials, and witness interviews conducted by the organizations.

This briefing paper places each individual into one of three categories based on the availability and nature of evidence concerning each individual. The limited information from official sources makes this categorization necessary.

CATEGORY 1: Individuals whose detention by the United States has been officially acknowledged and whose fate and whereabouts remain unknown.

CATEGORY 2: Individuals about whom there is strong evidence, including witness testimony, of secret detention by the United States and whose fate and whereabouts remain unknown.

CATEGORY 3: Individuals about whom there is some evidence of secret detention by the United States and whose fate and whereabouts remain unknown.

Within each category, detainees are listed in the reverse chronological order of the date of their apprehension.

List of Detainees

Category 1: Individuals whose detention by the United States has been officially acknowledged and whose fate and whereabouts remain unknown

Hassan Ghul

On January 23, 2004, Ghul, a national of Pakistan, was apprehended in northern Iraq. Ghul is described as an al-Qaeda facilitator in the *9-11 Commission Report*, which also confirms that Ghul was in U.S. custody. On January 26, 2004, President Bush congratulated U.S. intelligence agents for their role in Ghul’s apprehension. After his apprehension, Ghul was reportedly interrogated by U.S. military and intelligence officials. On December 5, 2005, ABC News reported that he had been held in a secret U.S. detention facility in Poland.³ On July 19, 2006 his name was included in the “Terrorists No Longer a Threat” List.⁴ No other information about Ghul’s fate has been released by the U.S. government, and his whereabouts remain unknown.

Ali Abd al-Rahman al-Faqasi al-Ghamdi (Abu Bakr al Azdi)

In May or June 2003, al-Ghamdi, a national of Saudi Arabia, turned himself in to authorities in Medina, Saudi Arabia, reportedly because his wife had been arrested several weeks earlier. The *9-11 Commission Report*, referring to al-Ghamdi as a candidate hijacker for the attacks of September 11, 2001, acknowledged that al-Ghamdi was in U.S. custody. On July 19, 2006, his name was included in the “Terrorists No Longer a Threat” List. No other information about al-Ghamdi has been released by the U.S. government, and his whereabouts remain unknown.

Ali Abdul-Hamid al-Fakhiri (Ali Abd-al-Hamid al-Fakhiri, Ibn al-Shaykh al-Libi)

Around November 11, 2001, al-Fakhiri, a national of Libya, was apprehended in Kohat, Pakistan by Pakistani officials. Al-Fakhiri is allegedly a member of the Libyan Islamic Fighting Group (LIFG) and the leader of the Al Khaldan training camp in Afghanistan from 1995 until 2000. Soon after his apprehension, al-Fakhiri was in U.S. custody in Kandahar, Afghanistan and reportedly came under the control of the CIA in January 2002 after a dispute between the CIA and the FBI regarding who would have control over al-Fakhiri. Reports indicate that al-Fakhiri was transferred to the U.S.S. Bataan by January 9, 2002 and then transferred to Egypt in January 2002. Al-Fakhiri may have been held in another country before being sent to a secret U.S.

³ Brian Ross & Richard Esposito, *Sources Tell ABC News Top Al Qaeda Figures Held in Secret CIA Prisons*, ABC NEWS, Dec. 5, 2005, available at <http://abcnews.go.com/WNT/Investigation/story?id=1375123> and *List of 12 Operatives Held in CIA Prisons*, ABC NEWS, Dec. 5, 2005, available at <http://abcnews.go.com/WNT/Business/popup?id=1375287>.

⁴ The “Terrorists No Longer a Threat” List is a list that was read into the U.S. Congressional Record on July 19, 2006 by Representative J. Gresham Barrett from South Carolina, Representative Thaddeus McCotter from Michigan, Representative John Carter from Texas, and former Representative Melissa Hart from Pennsylvania. No explanation was provided by these Members of Congress concerning the sources for the list, and no further information was given when inquiries were made in preparation of this briefing paper. The List is available at <http://thomas.loc.gov/cgi-bin/query/z?r109:H19JY6-0077>.

detention facility in Afghanistan in 2003. Al-Fakhiri was reportedly transferred out of Afghanistan in late 2003 to a secret U.S. detention facility and then transferred to Libya in late 2005 or early 2006. On December 5, 2005, ABC News reported that he had been held in a secret U.S. detention facility in Poland.⁵ Statements allegedly made by al-Fakhiri after his apprehension were reportedly a key part of U.S. pre-war intelligence on Iraq. In January 2004, al-Fakhiri is reported to have withdrawn his statements. Al-Fakhiri is now reportedly held in isolation in Tripoli, and said to be suffering from tuberculosis and to be in very poor health. At least one U.S. official has acknowledged U.S. involvement in elements of al-Fakhiri's treatment, including questioning al-Fakhiri and transferring al-Fakhiri to a third country for interrogation. On July 19, 2006 his name was included in the "Terrorists No Longer a Threat" List. No other information about al-Fakhiri's fate has been released by the U.S. government, and his whereabouts remain officially unexplained.

⁵ See *supra* note 3.

Category 2: Individuals about whom there is strong evidence, including witness testimony, of secret detention by the United States and whose fate and whereabouts remain unknown

Mustafa Setmariam Nasar (Abu Musab al-Suri, Umar Abd al-Hakim)

On or about November 1, 2005, Nasar, a dual Syrian-Spanish citizen, was apprehended in Quetta, Pakistan, by Pakistani officials. In November 2004, Nasar was identified on the FBI “Most Wanted Terrorists” List and on November 18, 2004, the U.S. Department of State offered a reward of \$U.S. 5 million for information concerning his location through its “Rewards for Justice” program and described Nasar as an al-Qaeda member and former trainer at camps in Afghanistan. Other reports describe Nasar as an ideologue and strategist, best known for his writings. Nasar is also wanted in Spain in connection with al-Qaeda activities. In April and May 2006, Pakistani intelligence officials confirmed that Nasar was wanted by both the U.S. and Syria, had been handed over to U.S. custody at least two months earlier, and was not in Pakistan. At around the same time, in March 2006, Nasar’s name was removed from at least one U.S. government list of terrorism suspects. On July 19, 2006, his name was included in the “Terrorists No Longer a Threat” List. No other information about Nasar’s fate has been released by the U.S. government, and his whereabouts remain officially unexplained.

Two, possibly three, Somalis [Names Unknown] (one of whom is either Shoeab as-Somali or Rethwan as-Somali)*

Sometime prior to December 2004, two Somali nationals were apprehended and detained in a secret U.S. detention facility. Between December 2004 and late 2005, Marwan Jabour⁶ reports that two Somalis were held in the cells next to his and that he sometimes would hear the Somalis talking with each other in Somali.

While in that facility, Jabour was also shown a photograph of a Somali man whom he had known previously and recognized as either Shoeab as-Somali or Rethwan as-Somali. Jabour recognized that the photograph had been taken in his previous cell in the same facility. The Somali man in the photograph may or may not have been one of the Somalis held in the cells next to Jabour between December 2004 and late 2005.

No information about these detainees’ fates has been released by the U.S. government, and their whereabouts remain unknown.

* Individuals publicly identified as missing for the first time by human rights groups are indicated by an asterisk. Note that while the detention of two Somali nationals has been previously reported, the possibility that a third Somali national was held in a secret U.S. detention facility has not been explicitly stated.

⁶ Marwan Jabour was held in the U.S. Secret Detention Program and was released from custody in 2006: see Human Rights Watch, *Ghost Prisoner: Two Years in Secret CIA Detention*, *supra* note 2.

Mohammed Naeem Noor Khan (Abu Talha, Abu Talaha)

On July 13, 2004, Khan, a national of Pakistan, was reportedly apprehended by Pakistani authorities with the assistance of the CIA and other U.S. agencies. Media reports since his disappearance have alleged that Khan is suspected of working as a computer and communications expert with al-Qaeda. In his 2006 memoir, *In the Line of Fire*, Pakistani President Pervez Musharraf provides details of the apprehension and subsequent treatment of an "unnamed Pakistani national" that strongly correlate with information available regarding Khan.⁷ President Musharraf records that the individual was apprehended by Pakistani officials based on "vital leads" provided by the U.S. who had also been "tracking him" and that British authorities were given "direct access" to the individual. At least one detainee held in a secret U.S. detention facility was shown photos of Khan that suggested he was in custody. On July 19, 2006, the name "Abu Tallah" was included in the "Terrorists No Longer a Threat" List. No information about Khan's fate has been released by the U.S. government, and his whereabouts remain unknown.

Abdul Basit

Before or during June 2004, Basit, a national of probably either Saudi Arabia or Yemen, was apprehended and transferred to a secret U.S. detention facility where according to Marwan Jabour he spoke with other prisoners held in the facility and gave his name as "Abdul Basit." No information about Basit's fate has been released by the U.S. government, and his whereabouts remain unknown.

Adnan [Last Name Unknown]

Before or during June 2004, Adnan was apprehended and transferred to a secret U.S. detention facility where according to Marwan Jabour he spoke with other prisoners held in the facility and gave his name as "Adnan." No information about Adnan's fate has been released by the U.S. government, and his whereabouts remain unknown.

Hudaifa

Before or during June 2004, Hudaifa was apprehended and transferred to a secret U.S. detention facility where according to Marwan Jabour he spoke with other prisoners held in the facility and gave his name as "Hudaifa." No information about Hudaifa's fate has been released by the U.S. government, and his whereabouts remain unknown.

Mohammed [Last Name Unknown] (Mohammed al-Afghani)

Mohammed, an Afghan born in Saudi Arabia, was apprehended in May 2004 in Peshawar, Pakistan. According to Marwan Jabour, Mohammed was transferred with him and two other prisoners out of a facility in Islamabad, Pakistan on June 16, 2004 and imprisoned with Jabour in

⁷ PERVEZ MUSHARRAF, *IN THE LINE OF FIRE: A MEMOIR* 241-243 (2006).

a secret U.S. detention facility. No information about Mohammed's fate has been released by the U.S. government, and his whereabouts remain unknown.

Khalid al-Zawahiri

On February 25, 2004, al-Zawahiri, a national of Egypt, was apprehended in Azam Warak in the South Waziristan region of Pakistan by Pakistani officials. He was reportedly questioned by both Pakistani and U.S. intelligence officials shortly after his apprehension, and there are indications that he was transferred to U.S. custody, possibly in Afghanistan. Reports indicate that al-Zawahiri is the son of Ayman al-Zawahiri, an alleged high-level al-Qaeda suspect. No information about Khalid al-Zawahiri's fate has been released by the U.S. government, and his whereabouts remain unknown.

Ayoub al-Libi

In January 2004, al-Libi, a national of Libya, was reportedly apprehended in Peshawar, Pakistan. According to Marwan Jabour, al-Libi was transferred with him and two other prisoners out of a facility in Islamabad, Pakistan on June 16, 2004 and imprisoned with Jabour in a secret U.S. detention facility. Jabour heard Ayoub al-Libi call out to him once during the first month of captivity in the secret U.S. detention facility. A prisoner with the surname al-Mahdi-Jawdeh (aka Ayoub al-Libi) (see page 13), was reportedly transferred from secret U.S. detention to Libyan custody in 2006, and may well be the same person. No information about al-Libi's fate has been released by the U.S. government, and his whereabouts remain unknown.

Abu Naseem

Naseem, a national of Tunisia, was apprehended in Peshawar, Pakistan, on June 17, 2003 by Pakistani authorities. He was reportedly suspected of providing forged documents to al-Qaeda, and of facilitating other al-Qaeda operations. Reports at the time of his arrest suggested that he may have been transferred to U.S. custody. Another suspect arrested on the same day was reportedly transferred to Bagram Air Base, Afghanistan. A witness reported hearing his voice in a secret U.S. detention facility in Afghanistan in late 2003. No information about Naseem's fate has been released by the U.S. government, and his whereabouts remain unknown.

Suleiman Abdalla Salim (Suleiman Abdalla, Suleiman Abdalla Salim Hemed, Suleiman Ahmed Hemed Salim, Issa Tanzania)

On March 18, 2003, Salim, a national of either Yemen or Tanzania, was reportedly apprehended in Mogadishu, Somalia. Somali warlords reportedly abducted him from a hospital and delivered him to an airport in Mogadishu, where U.S. officials took custody of him. Salim was reportedly sought by the U.S. for alleged involvement in the 1998 bombings of the U.S. embassies in Tanzania and Kenya. Witness testimony indicates that Salim was held in at least two secret U.S. detention facilities in Afghanistan during 2004. The former detainee who saw Salim said that Salim had been badly tortured while in U.S. custody: his arms had been broken, and he had been

hit in the head with the butt of a gun. No information about Salim's fate has been released by the U.S. government, and his whereabouts remain unknown.

Yassir al-Jazeerai (Yasser al-Jaziri, Abu Yasir al-Jaziri, Abu Yassir Al Jazeera, Yasser al-Jazeerai)

On March 15, 2003, al-Jazeerai, a national of Morocco, was apprehended in Lahore, Pakistan by Pakistani security forces, who were reportedly assisted by agents of the FBI. Reports indicate that al-Jazeerai was jointly interrogated by Pakistani and U.S. agents. Although al-Jazeerai was not included on the FBI "Most Wanted Terrorists" List at the time of his apprehension, he was characterized as among the top seven leaders of the al-Qaeda network by Pakistan's Federal Information Minister.

Witness testimonies indicate that al-Jazeerai was held in a CIA-operated portion of Bagram Air Base, Afghanistan, in late 2003 through early 2004. Al-Jazeerai was transferred to a secret U.S. detention facility in April 2004, where Marwan Jabour reports that he was allowed to meet with him several times as late as June 2006. According to Jabour, al-Jazeerai told him that he had been in a place with U.S. interrogators where he had been tortured, and that he had permanent damage to his arm as a result of being badly beaten. Jabour reported, "I saw very clearly the marks of torture on his body."⁸ Al-Jazeerai also indicated that he had been subjected to loud music for four months straight.

In 2003, the U.S. government acknowledged that Yassir al-Jazeerai had been captured or killed. On July 19, 2006 his name was included in the "Terrorists No Longer a Threat" List. No other information about al-Jazeerai's fate has been released by the U.S. government, and his whereabouts remain unknown.

Mohammed Omar Abdel-Rahman (Asadallah)

In mid-February 2003, Abdel-Rahman, a national of Egypt, was apprehended in Quetta, Pakistan. Abdel-Rahman is the son of Omar Abdel-Rahman (the "blind Sheikh") and according to the U.S. ran a training camp in Afghanistan prior to September 11, 2001 and had a role in planning the attacks of September 11, 2001. Information from Abdel-Rahman reportedly led to the joint U.S.-Pakistan arrest of Khalid Sheikh Mohammed, a detainee who the U.S. government has acknowledged was in the U.S. Secret Detention Program and is presently held at Guantánamo Bay. Reports indicate that Abdel-Rahman was in U.S. custody after his apprehension and that Abdel-Rahman was being questioned by U.S. authorities in early March 2003. On December 5, 2005, ABC News reported that he had been held in a secret U.S. detention facility in Poland.⁹ On July 19, 2006 his name was included in the "Terrorists No Longer a Threat" List. No other information about Abdel-Rahman's fate has been released by the U.S. government, and his whereabouts remain unknown.

Majid [Last Name Unknown] (Adnan al-Libi, Abu Yasser)*

⁸ Interview with Marwan Jabour, Nov. 23. 2006.

⁹ See *supra* note 3.

In 2003, Majid, a national of Libya, was apprehended, apparently in Afghanistan. The U.S. Department of the Treasury has described Adnan al-Libi as a "senior LIFG facilitator."¹⁰ He was reportedly held in a secret U.S. detention facility in Afghanistan in late 2003 and was apparently transferred to another secret U.S. detention facility, in which he was present in April 2004. No information about Majid's fate has been released by the U.S. government, and his whereabouts remain unknown.

Hassan [Last Name Unknown] (Raba'i)*

Hassan, a national of Libya, was apprehended in Pakistan, apparently in 2002. His pregnant wife, name and nationality unknown, was with him in Pakistan at the time of his arrest. Hassan is allegedly a member of the LIFG. He was apparently transferred with al-Fakhiri (aka Ibn al-Shaykh al-Libi) from a secret U.S. detention facility in Afghanistan in November 2003 to a secret U.S. detention facility, in which he was present in April 2004. He was reportedly transferred to Libyan custody in late 2005 or 2006, and is reportedly being held in Tripoli. No information about Hassan's fate has been released by the U.S. government, and his whereabouts remain officially unexplained.

[First Name Unknown] al-Mahdi-Jawdeh (Abu Ayoub, Ayoub al-Libi)*

Al-Mahdi-Jawdeh, a national of Libya, is allegedly a member of the LIFG. He was reportedly held in secret U.S. detention before being sent to Libya in 2006. A prisoner with the name Ayoub al-Libi was reportedly held in a U.S. secret detention facility with Marwan Jabour (see page 11) and may well be the same person. No information about al-Mahdi-Jawdeh's fate has been released by the U.S. government, and his whereabouts remain officially unexplained.

Khaled al-Sharif (Abu Hazem)*

Al-Sharif, a national of Libya, is allegedly a member of the LIFG. Al-Sharif had reportedly been held in a secret U.S. detention facility in Afghanistan in late 2003, with al-Fakhiri (aka Ibn al-Shaykh al-Libi) and Hassan (aka Raba'i). He may have been transferred to Libya in late 2005 or 2006, and is reportedly being held in Tripoli. No information about al-Sharif's fate has been released by the U.S. government, and his whereabouts remain officially unexplained.

¹⁰ U.S. Department of the Treasury, *Treasury Designates UK-Based Individuals, Entities Financing Al Qaida-Affiliated LIFG*, Feb. 8, 2006, available at <http://www.treas.gov/press/releases/js4016.htm>.

Category 3: Individuals about whom there is some evidence of secret detention by the United States and whose fate and whereabouts remain unknown**Osama bin Yousaf (Usama Bin Yussaf, Usama bin Yusuf, Usamah bin-Yusuf)**

On August 7, 2005, bin Yousaf, believed to be a national of either Pakistan or Saudi Arabia, was apprehended in Faisalabad, Pakistan, reportedly by tracking his cell phone, which was recorded in the phone directory of Abu Faraj al-Libi. Al-Libi was arrested on May 2, 2005 in Mardan, Pakistan by Pakistani authorities aided by U.S. intelligence officials and is one of the detainees who the U.S. government has acknowledged was in the U.S. Secret Detention Program and is presently held at Guantánamo Bay. Bin Yousaf is allegedly an al-Qaeda operative closely linked to al-Libi. It was reported that maps of cities in Germany and Italy were seized from bin Yousaf upon arrest. He was reportedly transferred to Lahore on August 9, 2005 and on the following day to Islamabad, where he was interrogated by U.S. officials. No information about bin Yousaf's fate has been released by the U.S. government, and his whereabouts remain unknown.

Osama Nazir

In November 2004, Nazir, a national of Pakistan, was apprehended by Pakistani authorities in Faisalabad, Pakistan. Nazir was reportedly a high-ranking operative of Jaish-e-Mohammad, a group allegedly linked to al-Qaeda. He was suspected of involvement in a March 2002 attack on a church in Islamabad's high-security diplomatic zone, and was later linked to Shehzad Tanweer, one of the suicide bombers responsible for the London attacks of July 7, 2005. The media reported that the U.S. government sought custody of Nazir after his arrest. On July 19, 2006, his name was included in the "Terrorists No Longer a Threat" List. No other information about Nazir's fate has been released by the U.S. government, and his whereabouts remain unknown.

Sharif al-Masri (Abd-al-Sattar Sharif al-Masri)

On August, 29, 2004, al-Masri, a national of Egypt, was apprehended in Quetta, Pakistan, reportedly by Pakistani authorities. His apprehension was confirmed on September 1, 2004 by Pakistan's Federal Information Minister. The Information Minister also confirmed that a second man was apprehended with al-Masri but stated that his identity was unknown. Reports alternatively indicate that this man was a national of Saudi Arabia, Yemen or Pakistan. In November 2005, U.S. sources indicated that al-Masri had told his interrogators about an al-Qaeda plan to bring nuclear materials to the United States via Mexico for use against U.S. targets. No information about al-Masri's fate has been released by the U.S. government, and his whereabouts remain unknown.

Qari Saifullah Akhtar (Amir Harkat-ul-Ansar Qari Saifullah)

On August 6, 2004, Akhtar, a national of Pakistan, was apprehended in Dubai, United Arab Emirates (UAE), reportedly with the assistance of UAE authorities after he had been traced by Pakistani intelligence officials. A number of media reports from August and October 2004 refer

to Pakistan's Federal Information Minister's comments that Akhtar was transferred after his apprehension from the UAE to Pakistan and was being interrogated by Pakistani officials. An unnamed intelligence official indicated that he was possibly being interrogated in Lahore. The allegations against Akhtar include that he led Harkat-ul Jihad al-Islami, was connected to a plot to assassinate Pakistani President Pervez Musharraf, and ran a terrorist training camp in Rishkor, Afghanistan. In connection with a habeas corpus petition filed on his behalf, the Pakistani Supreme Court has requested details from the government of Pakistan concerning his detention. The U.S. was reportedly interested in questioning Akhtar and on July 19, 2006, his name was included in the "Terrorists No Longer a Threat" List. No other information about Akhtar's fate has been released by the U.S. government, and his whereabouts remain unknown.

Mustafa Mohammed Fadhil (Moustafa Ali Elbishy, Hussein, Hassan Ali, Khalid, Abu Jihad)

In July or August 2004, Fadhil, a national of Egypt and possibly also Kenya, was reportedly apprehended in Pakistan by Pakistani authorities. Fadhil was named in a U.S. federal indictment concerning the 1998 bombings of the U.S. embassies in Tanzania and Kenya. On October 10, 2001, he was placed on the FBI "Most Wanted Terrorists" List. His name was removed from the list without explanation. No information about Fadhil's fate has been released by the U.S. government, and his whereabouts remain unknown.

Musaab Aruchi (Mosabir Aroochi, Masoob Aroochi, Abu Mosa'ab al-Balochi, Abu Mosa'ab Aroochi, Musaad Aruchi, al-Baluchi)

On June 12, 2004, Aruchi, a national of Pakistan, was apprehended in Karachi, Pakistan by Pakistani paramilitary forces reportedly supervised by the CIA, on the basis of U.S. intelligence telephone and internet intercepts. Aruchi is allegedly a senior al-Qaeda operative and is the nephew of Khalid Sheikh Mohammed, a detainee who the U.S. government has acknowledged was in the U.S. Secret Detention Program and is presently held at Guantánamo Bay. Unnamed Pakistani intelligence officials were quoted as saying that Aruchi was held by Pakistani authorities for three days before being flown in an unmarked CIA plane from a Pakistani air force base to an unknown location. On July 19, 2006, the name "Mosabir Aroochi" was included in the "Terrorists No Longer a Threat" List. No other information about Aruchi's fate has been released by the U.S. government, and his whereabouts remain unknown.

Ibad al Yaquti al Sheikh al Sufiyan

On January 22, 2004, al Sufiyan, a resident of Saudi Arabia, was reportedly apprehended in Karachi, Pakistan, by Pakistani intelligence authorities. He was reportedly suspected of being an al-Qaeda operative. Al Sufiyan was apprehended the day after Walid bin Azmi (see page 16), and reports indicate that information provided by bin Azmi led authorities to al Sufiyan. No information about al Sufiyan's fate has been released by the U.S. government, and his whereabouts remain unknown.

Walid bin Azmi

In January 2004, bin Azmi, described as "an Arab," was reportedly apprehended in Karachi, Pakistan in a raid by intelligence agencies. Bin Azmi was apprehended as part of a raid in which about a dozen individuals escaped, while those apprehended were reportedly transferred to U.S. custody, reportedly the FBI. Bin Azmi is allegedly an al-Qaeda operative who was based in Pakistan and is said to be a suspect in the bombing of the U.S.S. Cole in 2000. No information about bin Azmi's fate has been released by the U.S. government, and his whereabouts remain unknown.

Amir Hussein Abdullah al-Misri (Fazal Mohammad Abdullah al-Misri)

On January 18, 2004, al-Misri, a national of Egypt, was reportedly apprehended in Karachi, Pakistan by Pakistani authorities. Al-Misri is reportedly linked to Ahmed Omar Saeed Sheikh and al-Qaeda. A press report shortly after the apprehension quotes an unnamed Pakistani official indicating that investigators were trying to verify whether al-Misri was wanted by the U.S. government and that the FBI was likely to join local investigators shortly. The official is also reported as stating that those apprehended in the raid in which al-Misri was detained were being transferred to Islamabad, after which they were likely to be sent to U.S. custody. No information about al-Misri's fate has been released by the U.S. government, and his whereabouts remain unknown.

Safwan al-Hasham (Haffan al-Hasham)

On May 15, 2003, al-Hasham, a national of Saudi Arabia, was apprehended while driving from Hyderabad to Karachi, Pakistan by Pakistani authorities, possibly in the presence of U.S. officials. Media accounts indicate that al-Hasham was suspected of being al-Qaeda's communications chief. On July 19, 2006, his name was included in the "Terrorists No Longer a Threat" List. No other information about al-Hasham's fate has been released by the U.S. government, and his whereabouts remain unknown.

Jawad al-Bashar

In early May 2003, al-Bashar, a national of Egypt, was reportedly apprehended in Vindhur (Windar), Balochistan, along with an Afghan national, Farzand Shah, by law enforcement agencies. Al-Bashar is allegedly a member of al-Qaeda operating in Pakistan and is suspected to be linked to Khalid Sheikh Mohammed, a detainee who the U.S. government has acknowledged was in the U.S. Secret Detention Program and is presently held at Guantánamo Bay. No information about al-Bashar's fate has been released by the U.S. government, and his whereabouts remain unknown.

Aafia Siddiqui

On around March 28, 2003, Siddiqui, along with her three children (then aged 7 years, 5 years and 6 months), a national of Pakistan, was reportedly apprehended in Karachi, Pakistan. On

March 18, 2003, the FBI had issued an alert requesting information on Siddiqui so the FBI could locate and question her. The U.S. government has alleged that Siddiqui is linked to detainees that the government has acknowledged were in the U.S. Secret Detention Program, including Majid Khan and Ali 'Abd al-'Aziz 'Ali. There are a number of reports alleging that Siddiqui had been handed over to U.S. custody following her apprehension, but in May 26, 2004, then-Attorney General Ashcroft and FBI Director Robert Mueller III identified Siddiqui as someone presenting a threat to the United States, indicating their belief that she was not in custody. No other information about Siddiqui's fate has been released by the U.S. government, and her whereabouts remain unknown.

Saif al Islam el Masry

In September 2002, el Masry, a national of Egypt, was apprehended in the Pankisi Gorge, Georgia, by Georgian authorities. El Masry was suspected of being a member of al-Qaeda's high council. Media reports indicate that Georgian officials acknowledged that they transferred el Masry and others detained in the same raid to U.S. custody. No information about el Masry's fate has been released by the U.S. government, and his whereabouts remain unknown.

Sheikh Ahmed Salim (Swedan, Sheikh Ahmad Salem Suweidan, Sheikh Ahmed Salem Swedan, Sheikh Swedan, Sheikh Bahamadi, Ahmed Ally, Bahamad, Sheik Bahamad, Ahmed The Tall)

On July 11, 2002, Salim, a national of Kenya, was apprehended in Karachi, Pakistan by Pakistani authorities, possibly with the assistance of U.S. law enforcement agents. Media reports indicate that he was transferred to U.S. custody at some point in 2002. Salim was named in a U.S. federal indictment concerning the 1998 bombings of the U.S. embassies in Tanzania and Kenya. Salim is still listed on the FBI "Most Wanted Terrorists" List. No information about Salim's fate has been released by the U.S. government, and his whereabouts remain unknown.

Retha al-Tunisi

In early to mid-2002, al-Tunisi, a national of Tunisia, was apprehended in Karachi, Pakistan. Al-Tunisi is alleged to hold a high-level position in al-Qaeda. Marwan Jabour reports that while he was held in a secret U.S. detention facility, he was shown a photograph of al-Tunisi, who was apparently in U.S. custody. This may or may not be Ridah bin Saleh al Yazidi, a Tunisian national, who is presently held at Guantánamo Bay and does not have counsel. No information about al-Tunisi's fate has been released by the U.S. government, and his whereabouts remain unknown.

Anas al-Libi (Anas al-Sabai, Nazih al-Raghie, Nazih Abdul Hamed al-Raghie)

In February 2002, al-Libi, a national of Libya, was reportedly apprehended in Khartoum, Sudan, after which there were reportedly negotiations between U.S. and Sudanese officials to complete al-Libi's handover to U.S. custody. He was named in a U.S. federal indictment concerning the 1998 bombings of the U.S. embassies in Tanzania and Kenya and on October 10, 2001, his name

appeared on the initial version of the FBI "Most Wanted Terrorists" List, where his name still remains. He was probably sent to Egypt at some point after his apprehension and may now be in another country. No information about al-Libi's fate has been released by the U.S. government, and his whereabouts remain unknown.

[First Name Unknown] al-Rubaia

In 2002, al-Rubaia, a national of Iraq, was apparently apprehended in Iran and later held in a secret U.S. detention facility. Another detainee held in the same secret U.S. detention facility in Afghanistan read the name "al-Rubaia" and information about his arrest on a cell wall. No information about al-Rubaia's fate has been released by the U.S. government, and his whereabouts remain unknown.

Speen Ghul

Marwan Jabour reports that while in a secret U.S. detention facility, he was shown a photograph of Speen Ghul, a national of an African country, who was apparently in U.S. custody. No information about Ghul's fate has been released by the U.S. government, and his whereabouts remain unknown.

Detention of family members of detainees, including children

In some cases family members—including children—of detainees who have been held in the U.S. Secret Detention Program, have been apprehended, detained and/or subjected to coercive treatment. Family members may be apprehended separately or at the same time as the individual sought. One apparent object of such treatment has been to obtain information about the detainee. Some of these family members have been subsequently released, but in other cases their fate and whereabouts remain unknown.

In September 2002, Yusuf al-Khalid (then nine years old) and Abed al-Khalid (then seven years old) were reportedly apprehended by Pakistani security forces during an attempted capture of their father, Khalid Sheikh Mohammed. Khalid Sheikh Mohammed was successfully apprehended several months later, and the U.S. government has acknowledged that he was in the U.S. Secret Detention Program. He is presently held at Guantánamo Bay.

In an April 16, 2007 statement, Ali Khan (father of Majid Khan, a detainee who the U.S. government has acknowledged was in the U.S. Secret Detention Program and is presently held at Guantánamo Bay) indicated that Yusef and Abed al-Khalid had been held in the same location in which Majid Khan and Majid's brother Mohammed were detained in March/April 2003. Mohammed was detained by Pakistani officials for approximately one month after his apprehension on March 5, 2003 (see below). Ali Khan's statement indicates that:

Also according to Mohammed, he and Majid were detained in the same place where two of Khalid Sheikh Mohammed's young children, ages about 6 and 8, were held. The Pakistani guards told my son that the boys were kept in a separate area upstairs, and were denied food and water by other guards. They were also mentally tortured by having ants or other creatures put on their legs to scare them and get them to say where their father was hiding.¹¹

After Khalid Sheikh Mohammed's arrest in March 2003, Yusuf and Abed Al Khalid were reportedly transferred out of Pakistan in U.S. custody. The children were allegedly being sent for questioning about their father's activities and to be used by the United States as leverage to force their father to co-operate with the United States. A press report on March 10, 2003 confirmed that CIA interrogators had detained the children and that one official explained that:

"We are handling them with kid gloves. After all, they are only little children...but we need to know as much about their father's recent activities as possible. We have child psychologists on hand at all times and they are given the best of care."¹²

¹¹ See Statement of Ali Khan, Apr. 16, 2007, available at www.ccr-ny.org/v2/legal/september_11th/docs/Ali_Khan_statement.pdf

¹² See Olga Craig, *CIA Holds Young Sons of Captured al-Qaeda Chief*, SUNDAY TELEGRAPH (U.K.), Mar. 9, 2003, available at <http://www.telegraph.co.uk/news/main.jhtml?xml=%2Fnews%2F2003%2F03%2F09%2Fwalqa09.xml>.

In the transcript of Khalid Sheikh Mohammed's Combatant Status Review Tribunal, he indicates knowledge that his children were apprehended and abused: "They arrested my kids intentionally. They are kids. They been arrested for four months they had been abused."¹³

On March 5, 2003, Majid Khan, was apprehended in Karachi, Pakistan, along with his brother Mohammed, his brother's wife and their one month-old daughter. They were all taken to an unknown location. Majid Khan's sister-in-law and her daughter were detained for one week, and as mentioned above, Mohammed Khan was detained by Pakistani officials for approximately one month.

On March 28, 2003, Aafia Siddiqui (see page 16) was reportedly apprehended in Karachi, Pakistan along with her three children (then aged seven years, five years and six months).

On August 11, 2003, Hambali, a detainee who the U.S. government has acknowledged was in the U.S. Secret Detention Program and is presently held at Guantánamo Bay, was reportedly apprehended in Thailand along with his wife Noralwizah Lee Abdullah, a national of Malaysia, in a joint operation of which the U.S. was a part.

On July 24, 2004, Ahmed Khalfan Ghailani, a detainee who the U.S. government has acknowledged was in the U.S. Secret Detention Program and is presently held at Guantánamo Bay, was reportedly apprehended in Gujarat, Pakistan, along with two women (his wife, an Uzbek national and the Pakistani wife of South African national Zubair Ismail) and five children. His apprehension was reportedly a joint Pakistani-U.S. operation, coordinated with CIA and FBI officials.

¹³ U.S. Department of Defense, Khalid Shaykh Muhammad, *Transcript of CSRT (KSM) Hearing*, available at, http://www.defenselink.mil/news/Combatant_Tribunals.html.

Recommendations

- The United States must cease use of secret or unacknowledged detention.
- For those individuals currently detained by or at the direction of the United States, the United States and relevant foreign governments must:
 - Make known the names and whereabouts of detainees;
 - Provide immediate access by the International Committee of the Red Cross (ICRC) to all detainees the organization seeks to visit;
 - Charge detainees with a recognizable criminal offense and promptly bring them to trial before a court that meets international fair trial standards or release them; and
 - Allow detainees access to lawyers and to communicate with family members.
- The United States must not detain family members of terrorism suspects based on their family relationships.
- The United States must make known the names, fate, and whereabouts of all individuals it has detained in the "War on Terror," even if they have been released, transferred to the custody of another state, or are dead.
- The United States must provide reparations, including compensation, to individuals it has secretly detained.
- Other governments must not facilitate secret detention: they should not assist or cooperate in secret detention operations, and should disclose information about such operations that comes into their possession.