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UNITED STATES OF AMERICA

Below the radar: Secret flights to torture and 'disappearance'

1. The US rendition programme

1.1 Renditions

Amnesty International uses the term “rendition” to describe the transfer of individuals from one country to another, by means that bypass all judicial and administrative due process. In the “war on terror” context, the practice is mainly – although not exclusively – initiated by the USA, and carried out with the collaboration, complicity or acquiescence of other governments. The most widely known manifestation of rendition is the secret transfer of terror suspects into the custody of other states – including Egypt, Jordan and Syria – where physical and psychological brutality feature prominently in interrogations. The rendition network’s aim is to use whatever means necessary to gather intelligence, and to keep detainees away from any judicial oversight.

However, the rendition network also serves to transfer people into US custody, where they may end up in Guantánamo Bay in Cuba, detention centres in Iraq or Afghanistan, or in secret facilities known as “black sites” run by the USA’s Central Intelligence Agency (CIA). In a number of cases, individuals have been transferred in and out of US custody several times. Muhammad Saad Iqbal Madni, for instance, was arrested by Indonesian intelligence agents in January 2002, allegedly on the instructions of the CIA, who flew him from Jakarta to Egypt, where he “disappeared” and was rumoured to have died under interrogation. In fact, he had been secretly returned to Afghanistan via Pakistan in April 2002 and held there for 11 months before being sent to Guantánamo Bay in March 2003. It was more than a year later that fellow detainees, who said he had been “driven mad” by his treatment, managed to get word of his existence to their lawyers.

Rendition is sometimes presented simply as an efficient means of transporting terror suspects from one place to another without red tape. Such benign characterizations conceal the truth about a system that puts the victim beyond the protection of the law, and sets the perpetrator above it.

Renditions involve multiple layers of human rights violations. Most victims of rendition were arrested and detained illegally in the first place: some were abducted; others were denied access to any legal process, including the ability to challenge the decision to transfer them because of the risk of torture. There is also a close link between renditions and enforced disappearances. Many of those who have been

illegally detained in one country and illegally transported to another have subsequently “disappeared”, including dozens who have “disappeared” in US custody. Every one of the victims of rendition interviewed by Amnesty International has described incidents of torture and other ill-treatment.

Because of the secrecy surrounding the practice of rendition, and because many of the victims have “disappeared”, it is difficult to estimate the scope of the programme. In many countries, families are reluctant to report their relatives as missing, for fear that intelligence officials will turn their attention on them. Amnesty International has spoken to several people who have given credible accounts of rendition, but are unwilling to make their names or the circumstances of their arrests and transfers known. Some cases come to light when the victim is released or given access to a lawyer, although neither event is a common occurrence in the life of a rendition victim. The number of cases currently appears to be in the hundreds: Egypt's Prime Minister noted in 2005 that the USA had transferred some 60-70 detainees to Egypt alone, and a former CIA agent with experience in the region believes that hundreds of detainees have been sent by the USA to prisons in the Middle East. The USA has acknowledged the capture of about 30 “high value” detainees whose whereabouts remain unknown, and the CIA is reportedly investigating some three dozen additional cases of “erroneous rendition”, in which people were detained based on flawed evidence or confusion over names.¹

However, this is a minimum estimate. Rendition, like “disappearance”, is designed to evade public and judicial scrutiny, to hide the identity of the perpetrators and the fate of the victims.

1.2 'Diplomatic assurances'

“They promptly tore his fingernails out and he started telling things.”

Vincent Cannistraro, former Director of the CIA's Counterterrorism Center, describing what happened to a detainee who was rendered to Egypt

Those who have been rendered to other countries for interrogation have said they were beaten with hands or sticks, made to stand for days on end, hung up for *falaqa* (beatings on the sole of the foot)² or deprived of food or sleep. In some cases, the conditions of detention, including prolonged isolation, have themselves amounted to cruel treatment. Yet no one can investigate this, much less stop it, because the condition and whereabouts of most rendition victims remain concealed.

There is little doubt that transfers are intended to facilitate such abusive interrogation. The former director of the CIA's Counterterrorism Center, Vincent Cannistraro, told *Newsday* newspaper in February 2003 that a senior al-Qa'ida detainee had been sent from Guantánamo Bay to Egypt because he was refusing to cooperate with his

¹ Dana Priest, “Wrongful Imprisonment: Anatomy of a CIA Mistake”, Washington Post, 4 December 2005.

² Falaqa involves beating the bare soles of the feet, often when the victim is suspended upside-down. It causes intense pain due to the numerous nerve endings in the foot, and often causes lasting damage to the foot's small bones and tendons.

interrogators. In Egypt, Vincent Cannistraro said, “they promptly tore his fingernails out and he started telling things.”³ Robert Baer, a former CIA official in the Middle East, told the *British Broadcasting Corporation (BBC)*: “As I understand it, there’s a lot of franchising stuff out. Syria is a country, like Iraq, where they torture people. They use electrodes, water torture. They take torture to the point of death, like the Egyptians. The way you get around involving Americans in torture is to get someone else to do it.”⁴

The US government has claimed that renditions do not lead to a risk of torture. Secretary of State Condoleeza Rice insisted that: “the United States has not transported anyone, and will not transport anyone, to a country when we believe he will be tortured. Where appropriate, the United States seeks assurances that transferred persons will not be tortured.”⁵

Even if one were to accept the premise that rendition is not intended to facilitate interrogation under torture, reliance on such “diplomatic assurances” would not satisfy the absolute obligation not to transfer any person to a country where they risk torture or other ill-treatment (the principle of *non-refoulement*). Indeed, the premise on which such assurances are based is inherently self-contradictory. If the risk of torture or ill-treatment in custody is so great that the USA must ask for assurances that the receiving state is not going to carry out such a crime, than the risk is obviously too great to permit the transfer. Most states asked to provide such assurances have already signed binding legal conventions prohibiting torture and ill-treatment, and have ignored them. Moreover, the use of diplomatic assurances creates a situation in which neither state has an interest in monitoring the agreement effectively, as any breach of the agreement would implicate both the sending and receiving states in internationally prohibited acts of torture or ill-treatment.

1.3 Establishment of the US rendition programme

Before 11 September 2001, rendition was largely thought of as a means of returning suspected terrorists to the USA for trial. President Bill Clinton’s Presidential Decision Directive 39 of June 1995 states: “When terrorists wanted for violation of U.S. law are at large overseas, their return for prosecution shall be a matter of the highest priority... If we do not receive adequate cooperation from a state that harbors a terrorist whose extradition we are seeking, we shall take appropriate measures to induce cooperation. Return of suspects by force may be effected without the cooperation of the host government, consistent with the procedures outlined in [National Security Directive 77], which shall remain in effect.”⁶ National Security

3 Tom Brune, “An Aggressive Interrogation”, *Newsday*, 4 March 2003.

4 “Stars, Stripes and Human Rights”, interview broadcast on *British Broadcasting Corporation (BBC) Radio Three*, January 2006.

5 Secretary Condoleeza Rice, “Remarks Upon Her Departure for Europe”, as-aired at Andrews Air Force Base, 5 December 2005, see <http://www.state.gov/secretary/rm/2005/57602.htm>.

6 National Security Directive 77 was issued by President George Bush in January 1992, and its contents remain classified, <http://www.fas.org/irp/offdocs/pdd39.htm>.

Directive 77 was issued by President George W. Bush in January 1992, and its contents remain classified.

Speaking before the Senate Judiciary Committee in September 1998, FBI Director Louis J. Freeh noted: "During the past decade, the United States has successfully returned 13 suspected international terrorists to stand trial in the United States for acts or planned acts of terrorism against U.S. citizens... Based on its policy of treating terrorists as criminals and applying the rule of law against them, the United States is one of the most visible and effective forces in identifying, locating, and apprehending terrorists on American soil and overseas."⁷

At the same time, however, other US agencies were making provision to render terrorist suspects to third countries, where the goal was not trial, but to keep them in custody, out of circulation, and without access to US courts. Michael Scheuer, former chief of the CIA's bin Laden unit, said that the CIA had originally proposed a programme to bring suspects back to the USA and hold them as prisoners of war. When this failed to gain administration approval, in 1995, the rendition programme to Egypt was proposed and accepted. The goal was to "get the guys off the streets", said Michael Scheuer, and to seize documents, computers and any other information that could be exploited for intelligence.⁸ He also noted, however, that it was still White House officials who called the shots: they "told the CIA what to do, and decided how it should pursue, capture and detain terrorists... Having failed to find a legal means to keep all the detainees in American custody, they preferred to let other countries do our dirty work".⁹

Publicly, however, it continued to be suggested that rendition was a means of ensuring that terrorist suspects stood trial. In 2000, in a statement before the US Senate Select Committee on Intelligence, CIA Director George Tenet said: "Since July 1998, working with foreign governments worldwide, we have helped to render more than two dozen terrorists to justice. More than half were associates of Usama Bin Ladin's Al-Qa'ida organization. These renditions have shattered terrorist cells and networks, thwarted terrorist plans, and in some cases even prevented attacks from occurring."¹⁰ The meaning of the phrase "render... to justice" is not entirely clear. Amnesty International has asked the CIA for details of who was rendered and to where, and the dates of their trials, but has received no response.

In 2004, George Tenet testified to the US Congress' 9/11 Commission that the CIA's Counterterrorism Center, which added a Renditions Branch in 1997, "has racked up many successes, including the rendition of many dozens of terrorists prior to September 11, 2001." In later remarks, he clarified that there had been at least 70 renditions to foreign countries; no trials were mentioned.¹¹

7 1998 Congressional Hearings on Intelligence and Security, statement for the record from FBI Director Louis J Freeh, 3 September 1998.

8 Neil Mackay, "These two men are experts on rendition", Sunday Herald (Scotland), 16 October 2005.

9 Michael Scheuer, "A fine rendition", New York Times, 11 March 2005.

10 see:http://www.odci.gov/cia/public_affairs/speeches/2004/tenet_testimony_04142004.html.

11 Written Statement for the Record of the Director of Central Intelligence Before the National Commission on Terrorist Attacks Upon the United States, 24 March 2004.

1.4 Rendition practice since September 2001

“All I want to say is that there was ‘before’ 9/11 and ‘after’ 9/11. After 9/11 the gloves come off... ‘No Limits’ aggressive, relentless, worldwide pursuit of any terrorist who threatens us is the only way to go...”

Cofer Black, Director of the CIA's Counterterrorism Centre from 1999 until May 2002, in a statement before the 9/11 Commission

Since 11 September the focus of rendition practice has shifted emphatically; the aim now is to ensure that suspects are not brought to stand trial, but are handed over to foreign governments for interrogation – a process known in the USA as “extraordinary rendition” – or are kept in US custody on foreign sites. What was once an inter-agency operation was apparently turned largely over to the CIA under a still-classified directive signed by President Bush in September 2001.¹² The minority and majority leaders of both chambers of Congress were apparently notified of the CIA's new powers, but were not consulted on or even shown the directive.

The directive is said to give the CIA the power to capture and hold terrorist suspects. Prior to its signing, the CIA could capture suspects, but had no authority to keep them in custody. This had been part of the reason for establishing the rendition programme in the first place; it enabled the CIA – and other US intelligence agencies – to capture suspects and ship them off to client states without having to produce the evidence that would justify detention or trial.¹³ Roger Cressey, who was deputy counter-terrorism director at the White House in 2001, told *UPI*: “We are going to make mistakes. We are even going to kill the wrong people sometimes. That's the inherent risk of an aggressive counter-terrorism program.”¹⁴

As the practice of rendition has shown, mistakes are indeed made and lives are ruined. Some in the US government have tried to justify rendition and “black sites” by saying they are a necessary means of capturing and holding the “worst of the worst”, and that “renditions save lives”, yet there is no legal or judicial mechanism to ensure that this is the case. The methodology is to grab first, sometimes on flimsy or non-existent evidence, and to ask questions later.

Without a transparent process, based on the international standards and customary rules that bind all states, the programme of rendition and secret detention is eroding the human security and rule of law it claims to protect. For all practical purposes, the

¹² Douglas Jehl and David Johnston, “Rule Change Lets CIA Freely Send Suspects Abroad to Jails”, *New York Times*, 6 March 2005.

¹³ There are 15 federal organizations in the US “intelligence community”: National Security Agency/Central Security Service (NSA/CSS); Central Intelligence Agency (CIA); National Geospatial-Intelligence Agency (NGA); Federal Bureau of Investigation (FBI); Defense Intelligence Agency (DIA); National Reconnaissance Office (NRO); Department of Energy (DoE); Army Intelligence; Air Force Intelligence (AIA); Navy Intelligence (ONI); Marine Corps Intelligence; Department of Treasury (OIS); Department of State (INR); Coast Guard and the Department of Homeland Security (DHS).

¹⁴ Shaun Waterman, “CIA 'too cautious' in killing terrorists”, *UPI*, 28 February 2005.

USA has created a law-free zone, in which the human rights of certain individuals have simply been erased.

1.5 Pakistan

Hassan bin Attash was only 17 years old when he was detained in a house raid in Pakistan in September 2002. He was sent first to the "Dark Prison" in Afghanistan for about a week, then rendered again, this time to Jordan, where he said he was severely tortured while being interrogated about the activities of his brother, Walid bin Attash, who has "disappeared" and is presumed to be held in a secret US detention centre. Announcing Walid bin Attash's capture in 2003, President George W. Bush called him a "killer", adding "he is one less person that people who love freedom have to worry about". After 16 months in Jordan, Hassan bin Attash, a Yemeni national, was rendered back to US custody in Afghanistan, then resurfaced at Guantánamo Bay in May 2004.

Although cases of rendition from Western countries have received substantial attention in the media and from human rights organizations, it remains the case that most of the known victims of rendition or secret detention were initially detained in Pakistan, where the government maintains a close working relationship with the USA on intelligence matters. Some of them are known to be in Guantánamo Bay¹⁵; others in "black sites"; some were rendered by the USA to Middle Eastern countries where they are believed to have been tortured. Transfers to US and other custody have been carried out in contravention of Pakistani national extradition law as well as the international prohibition of *refoulement*.

The Pakistani government has publicly stated that some 700 terrorist suspects have been arrested, many of whom have been handed over to US custody. Many of these detainees have "disappeared", including men, women and children; journalists reporting on the "war on terror"; and doctors alleged to have treated "terrorists". Given the degree of secrecy surrounding security operations, and the overlap between US and Pakistani intelligence interests, it is difficult to find out which detainees have been turned over to the USA and which have been kept in Pakistani custody.

Those who have been turned over to the USA include many of the "high value" detainees currently being held in CIA "black sites". Of the 12 detainees identified by ABC news as having been held in secret detention in Poland, nine had first been arrested by Pakistani forces; at least 19 of the 28 "disappeared" named by the Center

15 More than 85 per cent of the Guantánamo detainees, for instance, were arrested not in Afghanistan by US troops, but by the Northern Alliance and Pakistani forces; rewards of up to US\$5,000 were paid for every "terrorist" turned over to the USA. One leaflet distributed in Pakistan by US forces read: "Get wealth and power beyond your dreams. Help the Anti-Taliban Forces rid Afghanistan of murderers and terrorists. You can receive millions of dollars for helping the Anti-Taliban Force catch Al-Qaida and Taliban murderers." See Mark Denbeaux et al, Report on Guantanamo Detainees: A Profile of 517 Detainees through Analysis of Department of Defense Data, Seton Hall University School of Law, February 2006.

for Human Rights and Global Justice at the New York University School of Law had likewise been detained in Pakistan.¹⁶

The most recent such detention appears to be that of Mustafa Setmariam Nasar, also known as Abu Musab al-Suri, who was reportedly arrested in Quetta by Pakistani counter-terrorism police in early November 2005. The subject of a US\$5 million reward on the FBI's "Rewards for Justice" list, Mustafa Nasar's capture was described by US intelligence officials as an "intelligence bonanza", adding that "he is all pen, no action, but the man has amazing access to a lot of other key players."¹⁷ The USA has not officially confirmed his arrest, and his current whereabouts remain unknown, but his photograph and details have been removed from the "Rewards for Justice" wanted list. Mustafa Nasar's wife Elena blames his continued "disappearance" on "non-Pakistani" agents.

Mustafa Nasar was one of 35 people listed in a 695-page indictment handed down in September 2003 by Spanish Judge Baltasar Garzon. The indictment called for the arrest of 34 other men, including Osama Bin Laden, on charges including membership of a terrorist group and planning terrorist acts. In the indictment, Judge Garzon alleged that Mustafa Nasar trained volunteers from Spain, Italy and France, then sent them home as "sleepers" awaiting orders. The judge also alleged that he worked closely with the leader of the Spanish cell, Imad Yarkus, a Syrian-born Spaniard who was tried and sentenced to a 25-year prison term in Spain in 2005. Judge Garzon issued an international arrest warrant for Mustafa Nasar in 2003, but the Spanish authorities have not been given any indication of his current whereabouts.

1.6 Torture, ill-treatment and 'disappearance': violations of international law

Incommunicado detention has been condemned by human rights bodies as a human rights violation that both facilitates torture, and constitutes a form of torture or cruel, inhuman and degrading treatment in itself. Prolonged isolation has been shown to cause depression, paranoia, aggression and hallucinations; the psychological trauma can last a lifetime. Where the detainee has "disappeared", the effects of enforced solitude are compounded by a pervasive sense of uncertainty and anxiety about the future, which can be similarly destructive.¹⁸

The Human Rights Committee, in an authoritative statement on the prohibition on torture and cruel, inhuman or degrading treatment, has stated that "to guarantee the effective protection of detained persons, provisions should be made for detainees to be held in places officially recognized as places of detention and for their names and

¹⁶ List from: Brian Ross and Richard Esposito, *Sources Tell ABC News Top Al Qaeda Figures Held in Secret CIA Prisons*, 5 December 2005, checked against *FATE AND WHEREABOUTS UNKNOWN: DETAINEES IN THE "WAR ON TERROR"*, The Center for Human Rights and Global Justice (CHRGJ) at NYU School of Law, December 2005.

¹⁷ Robert Windrem, "US hunt for 'pen jihadist' ends", *NBC News*, 3 November 2005.

¹⁸ *Combating torture: a manual for action*, Amnesty International, 2003. See also Human Rights First, *Behind the Wire: An Update to Ending Secret Detentions*, March 2005, p30.

places of detention... to be kept in registers readily available and accessible to those concerned, including relatives and friends".¹⁹ The UN Special Rapporteur on torture has said: "the maintenance of secret places of detention should be abolished under law. It should be a punishable offence for any official to hold a person in a secret and/or unofficial place of detention."²⁰

"Disappearances" are crimes under international law, involving multiple human rights violations. In certain circumstances they are crimes against humanity, and can be prosecuted in international criminal proceedings. The International Convention for the Protection of All Persons from Enforced Disappearance, defines enforced disappearance as the: "arrest, detention, abduction or any other form of deprivation of liberty committed 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."²¹

The defining characteristic of a "disappearance" is that it puts the victim beyond the protection of the law while concealing the violations from outside scrutiny, making them harder to expose and condemn, and allowing governments to avoid accountability.

The UN Committee against Torture has determined that the uncertainty regarding the circumstances surrounding their loved ones' fate "causes the families of disappeared persons serious and continuous suffering".²²

1.7 Secret detentions and secret transfers: the case of Muhammad Bashmilah, Salah Qaru and Muhammad al-Assad

"Every day here is another day stolen from my life."

Muhammad Bashmilah, who "disappeared" in US custody for 21 months and was then arbitrarily detained in Yemen

Secret detention is the corollary of a secret rendition programme. Without renditions, the US-run "black sites" could not exist. The USA has acknowledged that it is holding a number of "high value" detainees – those who are thought to be leading terrorist suspects or to have intelligence information too sensitive to be entrusted to client states. Rendition provides the means to transport them to the CIA-run system of

¹⁹ Human Rights Committee, General Comment 20, Article 7, para. 11. Accurate and detailed registers of detainees are required under international law and standards, including the UN Standard Minimum Rules for the Treatment of Prisoners and the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

²⁰ UN Doc. E/CN.4/2002/76, 27 December 2001, Annex 1.

²¹ The Convention has not been adopted, although text was finalized in September 2005: E/CN.4/2005/WG.22/WP.1/REV.4, 23 September 2005.

²² Concluding observations of the Committee against Torture: Guatemala, UN Doc. A/56/44, 6 December 2000, para. 73(e).

covert prisons that has reportedly operated at various times in at least eight countries. According to reports, these facilities tend to be used in rotation, with detainees transferred from site to site together, rather than being scattered in different locations. Although the existence of secret CIA detention facilities has been acknowledged since early 2002, the term “black sites” was first reported by the *Washington Post* in November 2005.

The only public testimony from those who have held in “black sites” comes from three Yemeni men who “disappeared” in US custody and were then held in secret detention for more than 18 months, before being returned to Yemen in May 2005. Muhammad Faraj Bashmilah and Salah Nasir Salim ‘Ali Qaru²³, had been arrested in Jordan before being transferred to US custody in October 2003. The third man, Muhammad Abdullah Salah al-Assad, was arrested in Tanzania, also in 2003, and turned over to US custody a few hours later. Amnesty International first reported on their cases in 2005, and returned to Yemen to follow up in February and March 2006; Muhammad al-Assad was released on 14 March. Muhammad Bashmilah and Salah Qaru were conditionally released from the political security prison in Aden at around midnight on 27/28 March.

During their “disappearance”, the three men were kept in at least four different secret facilities, likely to have been in at least three different countries, judging by the length of their transfer flights and other information they have been able to provide. Although not conclusive, the evidence suggests that they were held at various times in Djibouti, Afghanistan and Eastern Europe.

Muhammad Bashmilah and Salah Qaru were apparently taken from Jordan to Afghanistan in October 2003; other prisoners there managed to get word to them that they were in Afghanistan. The two men have separately described a transfer flight of about four hours from Jordan, which is consistent with a flight to Afghanistan.

It is not clear where in Afghanistan they were held, but it does not appear to be the same Afghan-run prison in Kabul in which Khaled el-Masri was detained at roughly the same time. Khaled el-Masri, a German citizen, had been arrested in Macedonia in December 2003 and rendered to Afghanistan, where he spent some four months in a prison he said was run by Afghans but controlled by US officials. In May 2004, apparently realizing that they had the wrong man, the USA flew him to Albania and dropped him off on a mountain road to make his own way back to Germany. Khaled el-Masri has drawn a detailed floor map of his Afghan prison; the map was immediately recognizable to Walid al-Qadasi, a Yemeni national who had been detained in Kabul in 2002.²⁴ Muhammad Bashmilah and Salah Qaru, however, did not recognize the drawing and insisted that there were no Afghan guards or staff at their prison. Both men believe that all of their guards and interrogators were from the USA,

23 In previous Amnesty International documents, he has been referred to as Salah ‘Ali, or as Salah Nasser Salim ‘Ali.

24 Amnesty International showed him the map in March 2006, days after he was finally released and returned to his home in Yemen. Walid al Qadasi had been transferred to Guantánamo Bay from Afghanistan in 2002, and spent nearly two years there before being returned to Yemen in April 2004. He was arbitrarily detained in Yemen for almost two years, before being released on 3 March. He has never been charged with any offence, nor given any explanation for the more than four years he has spent in detention.

although the translators included native Arabic speakers with Lebanese and Moroccan accents.

The men told Amnesty International that they were held with a group of “important, high ranking” prisoners, who were watched over very closely. One such detainee managed to tell them that he had not been held permanently in any one location, but had been transported with the group from place to place.

The security measures practiced in the facility were far stricter and more methodical than those described by other detainees who have been held in Afghanistan. Muhammad Bashmilah and Salah Qaru describe a regime in which each detainee was constantly and individually monitored. The men were held in complete isolation, in cells measuring about 2m x 3m. There was one camera above the door and another on the wall on the other side of the cell. The inmates were permanently shackled to a ring fixed in the floor; the chain was not quite long enough to allow them to reach the door.

If a guard needed to enter their room to take them to shower or for interrogation, for instance, they followed a set routine. When the guard opened the door, the inmate had to face the wall with his back to the door and his hands on the wall. The guard would hood them and handcuff them behind their backs before removing the shackles. The hood had a kind of noose that could be tightened around the neck if the detainee did not move fast enough or in the right direction. The guards were always covered, and wore masks and gloves, but the men said that none of them were Arabs or Afghans. When asked how they knew this, they replied that the guards “had a different kind of physique”.

They were allowed outside for 20 minutes once a week, when they were brought into a courtyard with very high walls and made to sit in a chair facing the wall. Once seated, their hood was removed. They were not allowed to look to the left or the right, and a guard stood behind them to “enforce the rules”.

Muhammad al-Assad was arrested in Dar es Salaam, Tanzania, on 26 December 2003 and flown out sometime before dawn the next day. Sources in Tanzania have said that he was flown to Djibouti on a small US plane. According to press reports, about 800 US personnel, part of a counter-terrorism task force, had been located in Djibouti in late 2002, and the site was known to be a base for the CIA’s unmanned predator planes.²⁵ Speaking before the US Senate Armed Services Committee in March 2005, General John Abizaid noted: “Djibouti has given extraordinary support for US military basing, training, and counter-terrorism operations”.²⁶

Muhammad al-Assad says that he was questioned there by US officials, one man and one woman, who told him they were from the USA’s Federal Bureau of Investigation (FBI); a picture of the President of Djibouti hung on the wall of the interrogation room. Muhammad al-Assad spent about two weeks there before being processed for

²⁵ *San Francisco Chronicle*, 12 January 2003.

²⁶ Statement of General John P. Abizaid, United States Army Commander, United States Central Command, before the Senate Armed Services Committee on the 2005 posture of the United States Central Command, 1 March 2005.

another transfer. This time he thinks he was in a larger plane as he entered it without having his head pushed down or bending. He believes he was strapped down to a bench and that the plane had a row of benches along the side. He knows the flight was long and that it touched down once before flying on to a place that was “cold and muddy”. At this location, he was held in two different detention centres, about 20-40 minutes apart by car, over unpaved roads. The first room was large and dirty, with a rug and a high narrow window; the second was smaller and darker, and the walls were covered in graffiti. The bread he was given there, he said, was from Pakistan or Afghanistan. Muhammad al-Assad is diabetic and says that he was not given proper medication during this period, so was often dizzy or ill. It is not certain that he was held with Muhammad Bashmilah and Salah Qaru, although all three men were transferred to the same final secret destination at about the same time.

At the end of April 2004, probably around the 24th, the men were brought, one at a time, to be prepared for transfer. They were stripped naked before being given absorbent plastic underpants, a pair of knee length cotton trousers to wear over them, a cotton shirt, and a pair of blue overalls. They were handcuffed and their hands were strapped to a belt around the waist, their legs were shackled together and to the belt. Foam earplugs were inserted in their ears. They were blindfolded and had their mouths covered with a surgical facemask, presumably to prevent them from talking. They were then hooded, and tape or a bandage was wrapped around the hood to prevent movement. Finally, a pair of heavy, sound-deadening headphones were placed over the hood. A similar process was described by Swedish police officers who witnessed a US-led renditions team preparing two men for transfer in December 2001; the renditions team told them that the procedures had become policy for transporting terrorist suspects “post 9/11”.

“You lose most of your senses”, said Muhammad Bashmilah, “but you can still feel a bit, and on this flight I felt the presence of a number of other bodies swaying back and forth.” The preparations are done very quickly and professionally, he added, by a team of black masked “ninjas” who carried out the whole operation in about 20 minutes. After he was prepared, he was taken to a waiting room for a couple of hours, so he believes there must have been a number of others undergoing the same treatment.

Muhammad Bashmilah and Salah Qaru said that this flight lasted three to four hours, Muhammad al-Assad thought the flight was longer. Whether or not they were on the same plane for the first leg of their journey, all three describe landing and waiting for an hour or so before being thrown roughly into a helicopter with a number of other prisoners. All three noted separately that they felt that there were a number of prisoners being transported at the same time, perhaps a dozen or more. All three agree that the helicopter flew for about two and a half or three hours, and that once it had landed they were taken to the new detention centre by car.

The size and location of the final secret facility, where they spent 13 months, remains unconfirmed. Two of the men told Amnesty International in October 2005 that they believed this detention centre was in Europe. Other information they have since provided, some of it confirmed or augmented by media reports, indicates a strong possibility that the men were indeed held in an Eastern European “black site”.

As Amnesty International has reported, the facility was new or refurbished, and carefully designed and operated to ensure maximum security and secrecy, as well as disorientation, dependence and stress for the detainees.²⁷ Well-staffed and resourced, and highly organized, the system in operation there could not have been maintained solely for the purpose of interrogating low-level suspects like Muhammad Bashmilah, Salah Qaru and Muhammad al-Assad.²⁸ One of the men calculated that at least 20 people were being taken to the shower room in his section each week, although he does not know whether the facility contained more than one section.

The men were initially examined by a doctor or medic, who had access to the medical records that had been kept on the men throughout their detention. At each transfer, the men said, they were stripped and photographed, front and back, and any wounds or marks on their bodies were noted on a medical record, which followed them from place to place. Salah Qaru explained that the doctor used a template drawing, and that he has two scars that the doctors always recorded. The scales used at their checkups, he noted, measured weight only in pounds, the unit used in the USA.²⁹

According to one of the men, "all of the guards and officials were Americans. One doctor we saw was an American and one spoke English with a European accent. Of the translators, some were native Arabic speakers, and some spoke Arabic with an American accent." The director of the prison was one of the few people they ever saw unmasked. When he arrived in late 2004, he told Muhammad al-Assad that he had been sent from Washington DC in order to decide who they should keep and who they should send home. "You are at the top of the list to be returned," he told Muhammad al-Assad.

Although the men were never allowed outside, or even to look through a window, they were given prayer schedules throughout the year. The schedules were not made up by the prison officials, but were downloaded from an Internet site (islamicfinder.org) which the men could see at the bottom of the printouts. On these schedules, they said that the time of sundown prayer over the course of the year changed by over three hours, from about 4.30pm to about 8.45pm (including an additional hour for daylight saving time). Such a degree of variation indicates a location north of the 41st parallel, well above the Middle East, and very likely to be within one of the member states of the Council of Europe (CoE). Countries that would fit the time range include Turkey, Azerbaijan, Georgia, Romania, Bulgaria, Albania and Macedonia. They were also in a location that observed daylight saving time, which is observed in all CoE member states, but not, for instance, in Afghanistan, Jordan or Pakistan.

²⁷ *United States of America/Yemen: Secret Detention in CIA "Black Sites"*, Amnesty International, November 2005, AI Index: AMR 51/177/2005.

²⁸ The fact that the men were released, that no terrorism-related charges have ever been brought against them, and that the Yemeni government has openly said that no such evidence exists all suggest that they were among the "erroneous renditions" reportedly being investigated by the CIA.

²⁹ Even countries that still use imperial measures, like the UK or Australia, generally measure weight in stone, rather than pounds.

Moreover, the men said that there was significant variation in the temperature. In particular, they noted the extreme cold during the winter. By December 2004, they said, it was so cold that they had to pray wearing their blankets. Even though they were issued new sets of extra warm blankets, they say the temperatures were colder than any they had ever known.

The detention centre had an on-site inventory of some 600 books, again suggesting that many more than three detainees were held there. Most of the books listed were in Arabic, but there were also titles in English, Farsi, Pashto, Russian and Indonesian. The men said that the Arabic books usually had a white and gold sticker, with Arabic and English writing, naming a bookshop in Washington DC and another in Chicago.³⁰ The detainees were given the book list one morning a week, and ticked off their choices; the book or books were delivered with their evening meal.

The men said that much of the food they were served seemed “European”, once including pizza which they had never eaten before. Their description of the meals also echoes the account provided in an *ABC* news report on a “black site” facility allegedly located in Poland.³¹ For breakfast, they were served two slices of bread with two triangles of cheese with the wrappers already removed, and yoghurt in a cup. Lunch was usually rice with tinned salty meat, sometimes fish or chicken, and olives or tomatoes. Dinner was more of the same, sometimes with some salad. For a short time in late 2004, they said, there was a dish of “normal” food, a spicy hot chicken with onions, but that stopped after Ramadan.

On Fridays they got two fingers of a “Kit Kat” chocolate bar, again with the wrappers removed (although the name was on the bar itself); *ABC* news reported that Kit Kats were a favourite of Abu Zubaydah, a “high value” detainee allegedly held in Poland in 2005.³² Labels were usually removed from their clothes and their bottles of water. They had some blankets and t-shirts made in Mexico, while their water cups, although made in China, had the name and telephone number of a US company embossed on the bottom.

The detention facility was about 10-15 minutes by car via a bumpy, possibly unpaved, road from the airstrip. When they got out of the car, they said, they walked up a flight of steps to get into the building, then once inside the building they walked down a ramp or slope of some kind. Their cells were new or refurbished – the walls were freshly painted and bare of any graffiti or identifying marks. The toilet facilities were modern -- the men noted that the toilets were Western-style and faced in the direction of Mecca (which they had been given for prayers), which they thought meant they were unlikely to be in a Muslim country. There was artificial light in the cells, which was usually on 24 hours a day. On the few occasions when the electricity failed, the men said, the cells were absolutely pitch black, leading them to believe that they may have been in the basement of the building. “We don’t have daylight here,” one of the

³⁰ Amnesty International has confirmed the existence of both bookshops.

³¹ Brian Ross and Richard Esposito, Sources Tell ABC News Top Al Qaeda Figures Held in Secret CIA Prisons, 5 December 2005.

³² *ibid.*

interrogators told them, "we have capsules". The men assumed that these capsules, which they were given every morning, contained vitamin C or D.

Although they were brought by helicopter, the facility was located within a 10-minute drive of an airbase or airstrip that is probably not a commercial airport, as it only receives light traffic. From their cells, Muhammad al-Assad said, they could hear planes taking off and landing. "Sometimes there were two or three a day," added Muhammad Bashmilah, "but some days there were none. A week wouldn't go by without planes and the most movement was on Wednesdays."

The information that the men provided about the duration of their flights provides general indications of where they might have been. However, without knowing the size, speed and route of the aircraft, as well as the exact duration of the flights, the locations cannot be pinpointed.

The flight that returned the men to Yemen in May 2005 was separately described by all three as a non-stop journey of approximately seven hours. The plane seems to have been a small jet. The men agree that there were about six steps from the ground to the door of the plane, and they think there were probably two seats on the aisle, at least on one side. They believe that they left in the early afternoon and arrived at about 10pm. An airport official said they might have arrived in Yemen in a military plane, although the Yemeni government has thus far refused to comment. Given that cruise speeds for likely aircraft vary from about 250 to more than 500 knots, the final flight could have been between 1,400-2,800 nautical miles (around 2,600-5,200 kilometres).³³

The triangulation between this flight and the shorter journeys the men had apparently made from Afghanistan to their final secret destination rule out locations in Western Europe and the Middle East. If the flight times given by the men are accurate, the initial flight from Afghanistan could have reached Azerbaijan, Armenia, Turkey or Georgia or coastal Bulgaria or Romania; an additional helicopter flight of 150-180 minutes from such locations would have been unlikely to have gone more than 500 nautical miles (around 925km). Aviation experts note that it is not common for helicopter flights to cross international borders, although technically possible. Assuming that the flight from Afghanistan had reached Turkey, eastern Bulgaria or Romania, possible sites for the final detention centre could have included Turkey, Bulgaria, Romania, Albania, Bosnia-Herzegovina and the Slovak Republic.

Senior Yemeni officials told Amnesty International that they had first heard of the men on 4 May 2005, when the US Embassy in Yemen informed them that the three would be flown to Sana'a and transferred to Yemeni custody the following day. The USA provided no further information about what the men might have done, or any evidence or charges against the men, but Yemeni officials say they were instructed by

³³ A Beech B300 has a maximum cruise speed of 311 knots, while certain models of the Gulfstream V can cruise at up to 585 knots. There are also turboprop planes with the capacity to fly seven hours non-stop; the CASA CN 235, for instance, has a cruising speed of about 246 knots. The men said they did not hear propellers, or sense the rhythm, but cannot be certain because of the headphones and ear plugs.

the US Embassy to keep the men in custody until their case files were transferred from Washington DC. No files or evidence were ever received.

On 13 February 2006, after more than nine months in arbitrary detention in Yemen, and some two and a half years since they were first arrested, the three men were brought to trial in Sana'a. On the basis of statements they made during their interview with the prosecutor of the Special Penal Court,³⁴ each was charged with forgery in connection with obtaining a false travel document for personal use. None of the alleged forgeries was presented in evidence. None of the men was charged with any terrorism-related offence; the Chief of Special Prosecutions told Amnesty International that they were not suspected of any such offences. The men all pleaded guilty and the judge had it written into the trial record that they had been detained in an unknown place by US agents. On 27 February the judge sentenced the men each to two years in prison, adding the instructions: "to count the period that the accused spent in prisons outside the country as part of the sentence". He calculated that, in addition to their nine months in prison in Yemen, their time in secret US detention had been at least 18 months, and ordered their release.

Muhammad al-Assad was released from custody in Sana'a on 14 March. Muhammad Bashmilah and Salah Qaru were transferred to Aden, where they were released at around midnight on 27/28 March. They were given instructions to report to political security every month and not to leave Aden without permission.

The human cost of rendition and secret detention is too often ignored. Muhammad al-Assad told Amnesty International on his release that "for me now, it has to be a new life, because I will never recover the old one". His business is in ruins, he is in debt, and he does not yet know if he will even be allowed to return to Tanzania, where he had lived since 1985, to try and rebuild the life he had made there.

The prospects are also bleak for Muhammad Bashmilah and Salah Qaru. The men do not know if they will be reunited with their wives in Indonesia, who have been thrown into destitution by their absence. Even if they manage to raise the money, they may not get permission to travel to Indonesia. Nor will it be easy for them to support themselves in Yemen. Even though they were never charged with a terrorist offence, they believe that they will remain stigmatized because they were detained by the USA. Under suspicion by any potential employers, and harassed by the security and intelligence service, they fear they will never be able to lead normal lives or take care of their families. All three men have suffered emotional and physical trauma – Salah Qaru and Muhammad Bashmilah have described severe torture during their detention in Jordan and are in urgent need of medical attention for problems caused or exacerbated by the long months in isolation and secret detention.

³⁴ Al-mahkama al-jaza'iyya al-mukhtassa.

1.8 Transfer to torture: the case of Muhammad Zammar

The secret arrest and subsequent “disappearance” of Muhammad Haydar Zammar has all the hallmarks of a case in which an individual has been rendered for the purposes of interrogation under torture. Muhammad Zammar, a German national of Syrian descent, was suspected of involvement with the “Hamburg Cell” – a group that included the presumed leaders of the 11 September 2001 attacks in the USA – and had been under surveillance in Germany for some years. He was questioned by German police after 11 September, and was brought before a court in Hamburg less than a week later. There was not enough evidence to hold him, but the Federal Public Prosecutor initiated an investigation into allegations that he had “supported a terrorist organization”.³⁵ Intelligence information supplied by Germany is thought to have been instrumental in his arrest in Morocco and rendition to Syria.

On 27 October 2001 Muhammad Zammar left Germany for Morocco, travelling on his German passport, and spent some weeks there and 12 days in Mauritius before attempting to return to Germany. He was reportedly taken into custody by Moroccan intelligence agents at the airport in Casablanca in early December, and was then interrogated by Moroccan and US intelligence officials for over two weeks. Towards the end of December 2001, he was reportedly put on the CIA’s Gulfstream V jet, N379P, and taken to Damascus, Syria. A US official declined to provide details on whether the USA was directly involved with Muhammad Zammar’s capture or transfer, but said that the US government was aware of the detention and the transfer as they occurred.³⁶

The German government was reportedly not informed of Muhammad Zammar’s arrest by the USA, Morocco or Syria, and learned of the transfer through media reports during June of 2002.³⁷ While US officials have said they do not have direct access to Muhammad Zammar in Syria, they have reportedly provided written questions to his Syrian interrogators. Murhaf Jouejati, an expert on Syrian politics and a former adviser to the Syrian government, testified before the 9/11 Commission: “Syrian cooperation was also highlighted by an earlier revelation that a key figure in the September 11 plot, Muhammad Haydar Zammar, had been arrested in Morocco and sent to Syria for interrogation, with American knowledge. Although US officials have not been able to interrogate Zammar, Americans have submitted questions to the Syrians.”³⁸

After learning through the media of his arrest and transfer, the German government reportedly ordered their intelligence agents to locate Muhammad Zammar, and was subsequently informed by US officials on 13 June 2002 that he was in the custody of the Syrian government. In November 2002, six German intelligence agents arrived in Damascus and interrogated Muhammad Zammar for three days. No details of these interrogations have been released or used in other investigations; as *Der Spiegel*

35 Holger Stark, “The Forgotten Prisoner: A Tale of Extraordinary Renditions and Double-Standards”, *Der Spiegel*, November 2005.

36 Peter Finn, “Al Qaeda Recruiter Reportedly Tortured”, *Washington Post*, 31 January 2003.

37 Peter Finn, “Syria Interrogating Al Qaeda Recruiter”, *Washington Post*, at A01, 19 June 2002.

38 See: http://www.globalsecurity.org/security/library/congress/9-11_commission/030709-joujati.htm.

magazine noted: "no court operating under the rule of law would ever accept an interrogation conducted in a Damascus prison notorious for its torture practices".³⁹ German diplomatic officials, on the other hand, have not been able to visit Muhammad Zammar; they have filed eight *notes verbales* seeking clarification of the reasons for Muhammad Zammar's detention and seeking a lawyer for him. The Syrian government has not responded to these notes.⁴⁰

In early 2003, a Moroccan national, recently released from the Far' Falastin (Palestine Branch) of Military Intelligence in Damascus, said that Muhammad Zammar was being tortured by Syrian officials. The former CIA official Robert Baer told Amnesty International that he had sought an interview with Muhammad Zammar in April 2003, while working in Syria for a US television network, but was told that "he is no longer with us". In an interview with a Swedish television channel, Robert Baer said: "there was not enough evidence obviously that he broke US law, but we still wanted him off the streets so we arranged with the Moroccan government to have him arrested, sent to Jordan and then to Syria where he is either dead or alive, I don't know. With the Syrians engaging in torture, there is no bones about it."⁴¹ There were persistent reports that Muhammad Zammar's physical condition had deteriorated, and even that he had died.

In 2004 Amnesty International learned through former prisoners that Muhammad Zammar had been held in solitary confinement at the Far' Falastin since he was brought to Damascus in late 2001. His underground cell was believed to be 185cm long, less than 90cm wide, and under 2m high. Although photographs taken before he left Germany show him as a large, heavy-set man, Amnesty International was told that his condition was now "skeletal".

Former detainees have told Amnesty International that the underground section of Far' Falastin is infested with rats and lice. There is no bed or mattress in a "tomb" cell, just a couple of old and filthy blankets. One plastic bottle is provided for drinking water, and another for urination. Three short visits to the bathroom are allowed daily - usually limited to several minutes each time, with 10 minutes allowed on Fridays to also take a shower or bath and to wash clothes. Access to fresh air and sunlight in the yard is restricted to a maximum of 10 minutes each month, but can be as infrequent as 10 minutes each six to eight months. Released detainees have told Amnesty International that the food provided is barely enough to keep a person alive, and is often rotten and always dirty, resulting in frequent bouts of diarrhoea.

Torture and ill-treatment are commonly reported at Far' Falastin. In addition to the prolonged solitary confinement in cramped and wretched conditions, detainees are commonly beaten or subjected to other methods of torture. Amnesty International has documented some 40 different types of torture and ill-treatment reportedly used against detainees in prisons and detention centres in Syria.

39 Holger Stark, "A Tale of Extraordinary Renditions and Double-Standards", *Der Spiegel*, November 2005.

40 "German, CIA Roles in Terror Suspect's Torture in Syria", BBC Monitoring International Reports, 22 November 2005.

41 *Sweden TV4*, Kalla Fakta Programme, broadcast 22 November 2004.

Amnesty International received information that Muhammad Zammar was taken from his solitary confinement cell in the Far' Falastin in October 2004. He may then have been held in Sednaya prison on the outskirts of Damascus. His family in Germany was given their first real indication that he was still alive when a letter from him, dated 8 June 2005, was sent to them through the International Committee of the Red Cross (ICRC) in Damascus. The letter, which contains just 43 words, suggests that he had been returned to the Far' Falastin. His current whereabouts are unknown, and he has yet to be seen by his family or anyone known to them since he was first detained.

1.9 A practice predating 2001: the case of Abdul Rahman al-Yaf'i

"We're going to kill you and bury you here', they told me, and all the time I was wishing that they would."

Abdul Rahman al-Yaf'i, on his interrogation in Jordan in 2000

Although shipping people off to third countries for "vigorous" interrogation has become a more common practice since September 2001, it was already an established means of trying to gather intelligence about al-Qa'ida. A network of intelligence agencies from different countries helped to carry out the practice of rendition, and US involvement may not always have been direct, although the aims and results of the interrogations were the same.

Abdul Rahman Muhammad Nasir Qasim al-Yaf'i, now 38 years old, was one of the pre-2001 victims of rendition. He spoke to Amnesty International in February 2006 about his rendition from Egypt to Jordan five years before. As with most of the other rendition victims interviewed by Amnesty International⁴², his interrogations did not appear to have been aimed at investigating a specific criminal offence, but at gathering intelligence about the activities of others. As in the cases of Muhammad Bashmilah and Salah 'Ali Qaru described above, it appears that the standard of evidence needed to warrant months of torture and interrogation was nothing stronger than his admission of a previous visit to Afghanistan.

Abdul Rahman al-Yaf'i, who lives in Sana'a in Yemen with his wife and six children, said that he took his aunt and brother to Cairo in Egypt for medical treatment in October 2000. When he told airport immigration officials, in response to a question, that he had visited Afghanistan 10 years before, they detained him at the airport for about 13 hours, then told him he would have to return for his passport. When he came back for it two days later, an Egyptian policeman cuffed and blindfolded him, and took him to a place where they put him in a cell so small he could not stand upright. When he asked why they were holding him, he said he was told "we just want some general information".

42 Most of the rendition victims interviewed by Amnesty International have been released, suggesting that their captors determined they did not have valuable or specific information. Their experiences of interrogation may therefore be substantively different from those who are believed to have "high value" intelligence.

After some hours in the tiny cell, he said, they took him to interrogation, and began calling him names and making him stand up and sit down over and over again. They asked him repeatedly about what he had done in Afghanistan, where he had gone, and whom he had met there. He was also questioned about bombings in Kenya, Tanzania and Riyadh in Saudi Arabia. When he could not answer, he said, they strangled him, all the while insulting his parents, wife and religion. He was interrogated like this three times a day. "If they beat me in Egypt", he said, "it would have been more bearable than what they did... They accused me of everything that ever happened in the world... perhaps it is the price you have to pay for having been in Afghanistan". They asked him to work with them, and offered to put his aunt and brother in the "finest hospitals in Cairo". He refused, and they told him he would now be turned over to the USA.

After four days, they returned him to the airport, where they took him through the VIP entrance and straight to a waiting plane.⁴³ The plane was "full of military, you could feel the presence of military even if it was a civilian plane." He says he kept asking what was happening to him and where he was going, but eventually "stopped asking questions because there were no answers". He said he was surprised when the plane took him to Amman airport in Jordan, where his guards handed him over to Jordanian security. He was again blindfolded and taken by car to a detention centre, which he described as a new building, about four stories tall, with good facilities. He thought it might be the General Intelligence Department (Mukhabarat al-'amma), which is indeed a modern building, located near Wadi Sir in Amman, about 30 minutes from the airport. "I was exhausted from the Egyptian terrorism [sic] and asked for some medication," he said, "and then I prayed and slept".

The next evening he was taken to interrogation, cuffed and blindfolded, and was told to write down everything that had happened in Egypt. After he finished, he said, they kept asking him "do you love Osama bin Laden?", and then they beat him and forced him to stand in his cell for more than 24 hours without sleep.

The following evening, they took him to a covered yard, where he saw large stains of what looked like blood on the concrete ground. His ankles were tied to a stick, and two soldiers picked it up from either end, so that he was suspended upside-down above the ground. They then took turns beating the soles of his feet until the stick they were using broke. "They reach a point where the blood is about to come out of your feet," he said, "and they stop there for a little while." There was a man in white clothes, who he thought was a doctor, supervising the procedure, and giving instructions on how long and how hard he should be beaten. *Falaqa*, sleep deprivation and long-term standing are commonly used forms of torture in Jordan.

Abdul Rahman al-Yaf'i felt that the interrogators were fishing for information. "They just kept saying 'confess, confess. Confess to Kenya, confess to Riyadh.' I kept saying the *Shahadah* [Muslim statement of faith] and they kept beating me and mocking my religion." When his feet swelled from the beating, they took him down and made him run around the yard, then made him stand in salt, while they poured

⁴³ The typical processing of transfer for rendition – including the hooding, shackling and jumpsuits – was established after 11 September 2001.

cold water on his feet to bring the swelling down. Then they strung him back up and it started all over again. On the first day this happened at least three times. "They told me: 'We're going to kill you and bury you here', and all the time I was wishing that they would."

He "disappeared" in Jordan for more than four months. His family never discovered his whereabouts; a brother living in the USA came to Egypt to search for him, while members of his tribe made persistent inquiries with the Egyptian ambassador in Yemen, who finally said that he did not know where Abdul Rahman al-Yaf'i was, only that he had left Egypt.

Abdul Rahman al-Yaf'i told Amnesty International that about twice a month, when the ICRC visited the detention centre, he and other detainees were told to get their things together and they would then be taken to underground cells, which he thinks might have been underneath the kitchen. In these cells, he and other prisoners wrote their names on the walls with the soot from the lantern wicks. He was not held in the same cell every time and could read on the walls the names of other detainees; there had been Saudis, Palestinians, Tunisians and Egyptians there. He thinks he was moved with about a dozen other people each time.

The interrogation was intensive for the first week or two, and after that intermittent, but always focused on general information. He was often shown photographs of people, most of whom he said he did not know. Throughout interrogation, he said, they would smack him (here he mimed a full back and forth open-handed blow) until his face swelled. He told us that even now, after five years, his ears are still ringing. There were three or four interrogators, he said, and "you really felt like they had been specially trained to insult religion, in particular beards... What I was most worried about all the time I was there was being raped. The interrogators threatened me tens of times with rape. I kept the same clothes on all the time I was there, I didn't take my robe off even when I went to the washroom, I never washed my clothes, I hoped that the smell would put them off."

Abdul Rahman al-Yaf'i was returned to Yemen in March 2001. One day guards came to his cell and told him they were sending him to the USA, a threat he said that they often used. Instead, he was taken to the airport with another Yemeni, where they were turned over to Yemeni guards and put on a Yemeni airlines passenger plane.

When the plane landed in Sana'a, he was taken directly to the Political Security prison, where he stayed for just under two months. It was better in Yemen, he said, "because they didn't hit me". When he asked why they were holding him, the Yemeni authorities said: "American pressure". He believes that his eventual release was due to the insistence of powerful tribal leaders.

Abdul Rahman al-Yaf'i knew of several other cases similar to his own, but said that most of these people are too frightened to talk to anyone about their experiences – a point which underscores the difficulty of getting any precise idea of the number of people who may have been subjected to rendition.

2. Planes and airports – the support network for rendition flights

“Yes. It's very convenient. It's finding someone else to do your dirty work.”

Michael Scheuer, who as a senior counter-terrorism official with the CIA, helped establish the rendition programme

2.1 International aviation law and renditions

The Convention on International Civil Aviation, also known as the Chicago Convention, establishes the rules of airspace, plane registration and safety, and sets out the rights of the signatory states in relation to air travel. It establishes a system under which all transit and landing rights for airlines and their aircraft require the explicit or tacit approval of the national governments in or above whose territory they operate. The current version of the Convention was adopted in 1944 and it has 117 contracting states.⁴⁴

Of particular importance for rendition cases is the clause that allows private, non-commercial flights to fly over a country, or make technical stops there, without prior authorization or notification. The CIA planes identified to date have been chartered from private companies, real or fictional. “State aircraft” – defined by the Convention as those “used in military, customs and police services” – do require specific agreement or authorization to fly over the territory of another state or to use its airports. Experts on rendition believe that this is one of the main reasons why privately contracted aircraft are used in rendition operations, rather than military or other official aircraft.

The intelligence and military community of the USA has long used private air carriers for secret operations. Some of the covert carriers identified by past US congressional inquiries and other investigations⁴⁵ are still in business. In November 2003, for example, carriers such as Southern Air, Kalitta Air, Evergreen International Airways, and Tepper Aviation – all known for their connections to covert intelligence and military operations – received a “US Transportation Command Certificate of Appreciation” for their support of Operations Enduring Freedom and Iraqi Freedom, in the “Global War on Terrorism”.⁴⁶

The use of planes able operating as private aircraft, without the restrictions placed on official or military flights, has been a key component of the rendition programme since the mid-1990s. According to Michael Scheuer, when the outlines of the current

44 Further information: ‘Enabling Torture: International Law Applicable to State Participation in the Unlawful Activities of other States’, Briefing Paper by The Center for Human Rights and Global Justice, New York University School of Law, February 2006

45 Ariadne’s Thread, report to the MacArthur Foundation, 2003; J Peleman, The logistics of sanction busting: the airborne component, in *Angola’s War Economy*, Pretoria, ISS, 2000; Netherlands Institute for War Documentation, <http://213.222.3.5/srebrenica/> Appendix II.

46 USTRANSCOM News Service, Release Number: 031113-1, 13 November 2003.

system were established in 1995, the CIA needed the means to locate, detain and remove terror suspects.⁴⁷ A small fleet of private jets able to land discreetly at both commercial airports and US military bases worldwide was the essential ingredient for making the system work.

2.2 CIA-front companies

The CIA rendition programme has relied on private planes contracted from companies listed as private air charter services. In some cases, these are CIA front companies that exist only on paper. Premier Executive Transport, for instance, first appeared as a Delaware company in 1994, and was then re-registered in Massachusetts in 1996 as a "Foreign Corporation".⁴⁸ It listed a President and Treasurer whose only known addresses were post office boxes outside Washington DC, who appeared to have no credit or personal history, and who both had Social Security numbers issued in the mid-1990s.⁴⁹

Premier was the listed owner of only two planes: the Gulfstream jet most frequently identified with rendition operations, originally registered as N379P; and a Boeing 737, initially N313P, which appeared regularly in locations such as Afghanistan, Libya, Jordan, Baghdad, Germany and the UK, and which Amnesty International believes was used to render Khaled el-Masri from Macedonia to Afghanistan in January 2004. Flight records show that the plane flew from Skopje to Kabul, touching down in Baghdad, on 24 January 2004, the day Khaled el-Masri was transferred from Macedonia to Afghanistan. Both planes had previously been registered by Stevens Express Leasing and Amnesty International has landing declarations showing that both continued to identify Stevens Express as their operator in 2003 and 2004. Stevens Express has an office address in Tennessee, but no actual premises, although it currently appears in US Federal Aviation Administration (FAA) records as the operator of four planes.⁵⁰ Stevens Express was in turn incorporated by the same lawyer listed as the official representative of Devon Holding, another company identified with rendition flights. Premier Executive Transport ceased operations in late 2004; the Boeing's ownership was transferred in November 2004 to Keeler and Tate Management, another non-existent front company with no other planes, no website and no premises. A few days later, the Gulfstream was transferred to Bayard Foreign Marketing, a company whose named corporate officer, Leonard Bayard, cannot be found in any public record.

Other transport contractors have actual premises and staff, but appear to be largely controlled by the CIA. Aero Contractors, for instance, was described by the *New York*

47 Jane Mayer, "Outsourcing Torture", *New Yorker*, February 2005.

48 Massachusetts registration certificate 521857292, can be viewed at:

<http://corp.sec.state.ma.us/corp/corptest/CorpSearchSummary.asp?ReadFromDB=True&UpdateAllowed=&FEIN=521857292>.

49 All US citizens are now required to have a Social Security number before their first birthday. The US Social Security Administration told the Boston Globe that those who receive their numbers in adulthood are either recent immigrants or people being given a new identity. Farah Stockman, Terror suspects' torture claims have Massachusetts Link, 29 November 2004.

50 FAA Registry Inquiry, 22 March 2006, see: <http://registry.faa.gov/aircraftinquiry>.

Times newspaper as “a major domestic hub of the Central Intelligence Agency’s secret air service”. The *New York Times* went on to say that the CIA owns at least 26 planes, and “concealed its ownership behind a web of seven shell corporations that appear to have no employees and no function apart from owning the aircraft. The planes, regularly supplemented by private charters, are operated by real companies controlled by or tied to the agency, including Aero Contractors and two Florida companies, Pegasus Technologies and Tepper Aviation.”⁵¹

In other cases, the CIA leases their planes from ordinary charter agents, such as Richmor Aviation, which the *Boston Globe* newspaper identified as “one of the nation’s oldest aircraft chartering and management companies”. The CIA has made frequent use of Richmor’s Gulfstream IV, N85VM, later N227SV, which has made over 100 trips to Guantánamo Bay, and which appears to have carried out the rendition of Abu Omar from Ramstein to Cairo in 2003.⁵² The plane’s owner confirmed to the *Boston Globe* in March 2005 that he charters his plane through Richmor to the CIA, as well as to other clients. The plane is currently advertised for charter at a rate of US\$5,365 per hour.

Individual aircraft may change their registration numbers, but they remain largely traceable. Given the concentrated attention now being devoted to tracking rendition flights, it seems that the intelligence services have now decided that the notorious Gulfstream V, variously registered as N379P, N8068V and N44982, has become too conspicuous. It was put up for sale in November 2005; the advertisement on www.usaircraftsales.com emphasized its “16 pax capacity, dual DVD players, mid and aft seating in Brown leather, and Walnut matte finish woodwork”, but the plane had to be “priced below market” due to its heavy usage.⁵³ Premier Executive Transport itself seems to have vanished as well; there are no planes registered with the company and its landing contracts expired in 2005 and have not been renewed. It is likely that other companies have been created to take Premier’s place, and that other, less well-known planes are now being used for CIA rendition activities.

It is likewise the case that the number of flights carried out by the planes identified for monitoring in this report have fallen over the last year. This does not necessarily indicate that renditions are not being carried out, but that companies and aircraft previously involved in the programme are being replaced, making the rendition programme increasingly difficult to monitor.

2.3 Other US agencies involved in rendition

Although renditions have largely been carried out under the auspices of the CIA, other US agencies have apparently been involved in both flight leasing and operations. Contracts for identified rendition planes have been issued through an obscure US Navy office, rather than the CIA, according to US Department of Defense (DoD)

51 Scott Shane, Stephen Grey and Margot Williams, *CIA Expanding Terror Battle Under Guise of Charter Flights*, New York Times, 31 May 2005.

52 Abu Omar, an Egyptian cleric, was kidnapped in Italy and then flown on this jet from Germany to Egypt.

53 <http://www.usaircraftsales.com/Forsale/SPECS%20GV%20581%20%202.pdf>.

documents obtained by *Associated Press (AP)*.⁵⁴ In September 2005, *AP* reported that the Navy Engineering Logistics Office (NELO)⁵⁵ had issued classified contracts with 10 different companies and 33 planes for the “occasional airlift of USN (Navy) cargo worldwide.” This was the first indication that the DoD had participated in the rendition programme; the companies previously identified as operators of rendition planes were widely believed to be under CIA contracts.

According to the *AP* article, permits to land and buy fuel in US bases worldwide were granted to all of the 10 companies under NELO contract between 2001 and 2004. The 2004, 2005 and 2006 contract lists examined by Amnesty International show that permission to land in US bases worldwide is currently held by 12 companies, but had previously been granted to a total of 38 companies, among them Aviation Specialties; Devon Holding & Leasing; Path Corporation; Rapid Air Trans; Richmor Aviation; Stevens Express Leasing; and Tepper Aviation, all allegedly involved in rendition operations through one or more of their planes.⁵⁶ Many of these companies also appeared in lists of commercial agreements for buying fuel under US Defense Energy Support Center contracts.⁵⁷

There have been other indications that responsibility for the rendition programme should not be laid solely at the door of the CIA. It has been reported that the teams that actually carry out the rendition operations include members of military Special Forces units, as well as CIA personnel. Amnesty International has copies of police investigation reports into CIA flights in Spain that suggest that the pilots of the rendition planes were US military officers; when their names were checked against FAA databases, it was found that not all were currently registered as private pilots. If any pilots involved in rendition flights were found to be US military officers, the legal implications would be important: members of the armed forces are not only subject to international legal standards and to US criminal law, but also to the Uniform Code of

54 Seth Hettena, *Navy Secretly Contracted Jets Used by CIA*, Associated Press, 24 September 2005.

55 Further research carried out by Amnesty International has shown that the Office's name and address were removed from the US DoD's DARF (Defense Federal Acquisition Regulations Supplement - Appendix G, Activity Address Numbers) March 2000. NELO was until 1999 listed in Appendix G with the identification number N41756 and addressed as Navy Engineering Logistics Office, LE Washington, DC 20000. Since 14 November 2003, Appendix G has been entirely removed from the Defense Federal Acquisition Regulations Supplement. (See: <http://farsite.hill.af.mil/archive/DFars/DCN19990101/DFARSAPxG.htm>, http://www.acq.osd.mil/dpap/dars/dfars/html/previous/r20031001/appendix_g-3.htm). NELO also appears as contracting agent in a “Broad Agency Announcement in Joint Support of the Technical Support Working Group and Defense Advanced Research Projects Agency/Information Exploitation Office, Srcsgt” dated 5 June 2003 (solicitation number 03-Q-4110) and its address is posted as “Department of the Navy, Navy Engineering Logistics Office TSWG, P.O. Box 16224 Arlington, VA 22202”. According to *AP*, NELO “operates under different names: it is also known as the Navy Office of Special Projects and its San Diego location is called the Navy Regional Plant Equipment Office.” Its principal function is “the conduct of foreign intelligence or counterintelligence activities.”

56 The list also includes the following companies: Aeromet (L-3/Aeromet); Air Transport International; Air Trek; Airmed International; Atlas Air; BK Associates; Centurion Aviation Services; Continental Airlines; Continental Micronesia; Crowell Aviation Technologies; Delta Air Lines; Eastern Shore Holding; Evergreen International Airlines; Falcon Air Express; Federal Express; Gemini Air Cargo; North American Airlines; Omni Air International; Orbital Sciences Corp.; Raytheon Aircraft Company; Southern Air; United Parcel Service, Co.; US Airways Group; Vantage Leasing; World Airways.

57 Defense Energy Support Center, Commercial Purchase Agreement Customers - DODAAC Database, various editions from 2001 to 2005.

Military Justice, which explicitly forbids both “unlawful detention” and “cruelty and maltreatment”. The armed forces do not appear to be covered by the memorandum authorizing the CIA to carry out renditions.

According to a former CIA officer interviewed by the *Chicago Tribune*, Gulfstream N379P/ N8068V/ N44982 was operated by “the Joint Special Operations Command, an inter-agency unit that organizes counter-terrorist operations in conjunction with the CIA and military special forces.”⁵⁸ The Joint Special Operations Command is the coordinating agency for all military special operations forces and operations, and its headquarters are at Fort Bragg, North Carolina. According to its website, Fort Bragg is the “Home of the Airborne and Special Operations Forces. Fort Bragg houses the 82nd Airborne Division and the XVIII Airborne Corps, the US Army Special Operations Command and the US Army Parachute Team.” The CIA’s deputy executive director Christopher Kojm told the 9/11 Commission that “the CIA had two main operational responsibilities for combating terrorism: rendition and disruption... The CIA often plays an active role, sometimes calling upon the support of other agencies for logistical or transportation assistance.”⁵⁹

A *United Press International (UPI)* report in January 2005 noted that the FBI also carries out renditions, but that it transports its suspects by US Air Force jet rather than private plane.⁶⁰

2.4 Role of third countries

Countries that allow CIA planes to cross their air space and use their airports have defended these actions by citing their obligations under the Chicago Convention. They may claim that the state party has no authority to question the reasons for the flight or to board the airplane during the stay in the airport because of the rights guaranteed by the Convention.

However, the Chicago Convention holds that every state has the right to require that an aircraft flying over its territory must land at a designated airport for inspection if there are “reasonable grounds to conclude that it is being used for any purpose inconsistent with the aims of the convention”. Given that the practice of rendition violates international human rights law, it follows that transferring or aiding and abetting in the transfer of a detainee in such circumstances cannot be a purpose consistent with the aims of the Chicago Convention, especially considering the internationally recognized, absolute prohibition of torture. The extensive reporting by the media, human rights organizations and parliamentary bodies of specific flight numbers and chartering companies which appear to be involved in renditions constitutes “reasonable grounds” for suspicion. This would give states the right to stop certain aircraft suspected of being involved in the unlawful transfer of detainees.

58 “Mystery man takes to skies; Elusive owner’s jet linked to CIA torture”, *Chicago Tribune*, 9 January 2005.

59 Transcript: Wednesday’s 9/11 Commission Hearings, FDCH E-Media, Wednesday, 24 March 2004.

60 Richard Sale, “Renditions pro and con”, UPI, 19 January 2005.

2.5 Flight movements: 2001-2005

Amnesty International and TransArms⁶¹ have records of nearly 1,000 flights directly linked to the CIA, most of which have used European airspace; these are flights by planes that appear to have been permanently operated by the CIA through front companies. In a second category, there are records of some 600 other flights made by planes confirmed as having been used at least temporarily by the CIA. Finally there are well over 1,000 other flights made by planes owned by companies that have been linked to the CIA, but which are not known to be connected to any known cases of rendition.

The flight information comes from several sources: FAA flight records; European flight records; actual flight logs; aircraft movements recorded by airport authorities; airport records acquired in police and parliamentary investigations; photographs of aircraft in selected airports; and some press reports. Flight logs contain all movements carried out by the plane, including all stopovers between origin and destination airports.

Flight records, however, only tell part of the story. Records maintained by the FAA, for instance, do not include all of the stops a plane has made during a trip away from US airspace. The information usually provided includes the origin airport in the USA or in FAA monitored airspace – including Ireland and the UK – and the first destination of the flight outside monitored airspace. It does not pick up again until the plane reappears in FAA monitored airspace. It also shows the flight date, time and duration.

What this means in practice is that large parts of a flight's itinerary may not be shown by FAA flight records. In January 2004, for instance, the CIA's Boeing 737, N313P, left from Washington DC and stopped off in Ireland, Cyprus, Morocco, Algeria, Spain, Macedonia, Iraq, Afghanistan, Romania and Spain before returning to Washington DC, apparently carrying out the rendition of Khaled el-Masri on the way. FAA records show the Washington to Ireland and Ireland to Cyprus flights, but do not record the landings in Morocco, Algeria, Spain, Macedonia, Iraq, Afghanistan or Romania. Amnesty International has obtained this information from another source. The final leg of the journey, the return flight from Spain to the USA, is also shown. The shortcomings – for the purposes of monitoring – are obvious; such flight records do not show the precise activities of the planes in locations where renditions are most likely to occur, they can only show whether planes were active in a certain region at the time in question.

It also seems likely that not all relevant traffic is recorded by the FAA; between 2001 and 2005, for instance, two of Premier Executive Transport's jets made a total of 50 landings at Shannon Airport in Ireland, yet the records show that they only took off 35 times. Flight records originating from European sources provide additional information on flights that have originated or terminated in European airspace.

⁶¹ TransArms, Research Center for the Logistics of Arms Transfers.

Flight lists are useful, but they cannot tell whether or not any particular plane has carried out a rendition. The information they contain is indicative rather than conclusive; Amnesty International has constructed a database of flights in order to check it against case information as it becomes available. It remains the case that raw data on the flights themselves is of limited use without specific details of cases; case details are hard to come by precisely because the secret nature of the practice is aimed at avoiding scrutiny and oversight. Where cases become known, and the details and dates of the abduction or transfer can be pinpointed, it has often been able to match a rendition with a flight record. Amnesty International cannot, however, infer possible cases or even make estimates of the extent of the rendition programme solely from the flight information.

2.6 Companies and aircraft

Amnesty International and TransArms have compiled a list of companies likely to have had some level of involvement in renditions and other covert operations. This includes the owners or operators of aircraft that have been detected in known cases of rendition or in other CIA operations, as well as some of the companies – believed to be intelligence-linked – that are mentioned in both the US Army Aeronautical Service Agency's worldwide landing permits and in US DoD fuelling contracts.

The tentative list of companies involved in covert activities has in turn formed the basis for the list of aircraft whose flights Amnesty International has tracked over the 2001-2006 period. Once the flight logs were analysed, some of these companies and aircraft were dropped from the list, because flight logs indicated that they had only flown in and out of locations unlikely to have been connected to either the rendition programme or to covert CIA activities. In a number of cases, there was mixed activity – a plane which has made repeated flights in and out of bases in Afghanistan and Egypt, for instance, has also appeared in holiday resorts or business centres in the USA – suggesting that the agency may be trying to vary its use of planes, so that individual aircraft cannot be so closely linked to covert activity.

The other indication of a shifting landscape in the world of front companies is the current list of companies with a Civil Aircraft Landing Permit (CALP) that authorizes them to land on US military bases worldwide. The 10 companies that currently hold such certificates are listed below, but equally important are those that are no longer listed. Notably absent from the 2006 list are some of the companies with the most widely and frequently reported rendition links: Aeromet, Inc; Devon Holding and Leasing, Inc; Premier Executive Transport Services, Inc; Rapid Air Trans; Raython Aircraft Company; Richmor Aviation, Inc; Stevens Express Leasing, Inc; and Tepper Aviation, Inc. The permits of all of these companies expired in 2005 and none has been renewed.

PRIVATE COMPANIES WITH CURRENT PERMITS TO LAND IN US MILITARY BASES WORLDWIDE⁶²

NAME	CALP	EXPIRATION
CENTURION AVIATION SERVICES, INC. *	01-04-121 01-05-132	1 OCTOBER 2005 1 OCTOBER 2006
EVERGREEN INTERNATIONAL AIRLINES, INC. *	01-04-179 01-05-059	1 APRIL 2005 1 APRIL 2006
FALCON AIR EXPRESS*	01-04-021 01-05-163	8 NOVEMBER 2004 16 JULY 2006
GEMINI AIR CARGO, INC. *	01-04-124 01-05-117	22 JULY 2005 1 AUGUST 2006
OMNI AIR INTERNATIONAL, INC.	01-04-141 01-05-130	1 AUGUST 2005 1 AUGUST 2006
ORBITAL SCIENCES CORPORATION *	01-04-020 01-04-117 01-05-118	1 JULY 2004 1 JULY 2005 1 JULY 2006
PHOENIX AIR GROUP	01-05-113	1 AUGUST 2006
POLAR AIR CARGO, INC *	01-05-037	31 DECEMBER 2006
RYAN INTERNATIONAL AIRLINES	01-05-152	15 MAY 2006
SOUTHERN AIR, INC.	01-04-161 01-05-166*	13 NOVEMBER 2005 13 NOVEMBER 2006

(*) EXCEPT THE BUCHOLZ US ARMY AIRFIELD, KWAJALEIN ATOLL, KIRIBATI, MARSHALL ISLANDS

COMPANIES AND AIRCRAFT LINKED TO RENDITION FLIGHTS IN PRESS AND PARLIAMENTARY REPORTS

OWNER/OPERATOR	REGISTRATION NUMBER	MANUFACTURER'S NUMBER	AIRCRAFT TYPE
AERO CONTRACTORS			
APACHE AVIATION	N404AC	1384	G-IV
AVIATION SPECIALTIES	N5139A	BL-144	BEECH B200C
AVIATION SPECIALTIES	N4489A	BL-145	BEECH B200C
BAYARD FOREIGN MARKETING LLC	N44982	581	G-V
BRAXTON MNG/CENTURION AVIATION SERVICES	N478GS	1478	G-IV
DEVON HOLDING/AEROCONTRACTORS	N168D	C-135	CASA CN-235- 300
DEVON HOLDING/AEROCONTRACTORS	N196D	C-139	CASA CN-235
DEVON HOLDING/AEROCONTRACTORS	N187D	C-143	CASA CN-235
GEMINI LEASING INC.	N600GC	46965	DC-10- 30F

62 www.usaasa.belvoir.army.mil, various period 2004-2006.

OWNER/OPERATOR	REGISTRATION NUMBER	MANUFACTURER'S NUMBER	AIRCRAFT TYPE
IMPERIAL AIR	N331P	7323	DC3-G202A
KEELER & TATE MGM	N4476S	33010	B-737-7ET BBJ
MARK J. GORDON	N829MG	327	G-III
PEGASUS TECHNOLOGIES			
PHOENIX AVIATION GROUP	N547PA	012	LEARJET 36
PHOENIX AVIATION GROUP	N541PA	053	LEARJET 35
PHOENIX AVIATION GROUP/CFF AIR INC	N549PA	119	LEARJET 35A
PREMIER EXECUTIVE TRANSPORT SERVICES	N313P	33010	B-737-7ET BBJ
PREMIER EXECUTIVE TRANSPORT SERVICES, INC	N379P	581	G-V
PREMIER EXECUTIVE TRANSPORT SERVICES, INC	N8068V	581	G-V
RAPID AIR TRANS INC./TEPPER AVIATION	N2189M	4582	L-382G-44K-30
RAPID AIR TRANS INC./TEPPER AVIATION	N8183J	4796	L-382G-44K-30
RICHMOR AVIATION-ASSEMBLY POINT AV	N85VM	1172	G-IV
RICHMOR AVIATION-ASSEMBLY POINT AV.	N227SV	1172	G-IV
S&K AVIATION LLC	N259SK	327	G-III
STEVENS EXPRESS LEASING	N4009L	B300C	Raytheon

3. Amnesty International's recommendations

Amnesty International makes the following recommendations as immediate and essential steps towards putting an end to the rendition programme and its associated practices, including enforced disappearance, torture and incommunicado and secret detention.

Recommendations to all governments:

No renditions

- Do not render or otherwise transfer to the custody of another state anyone suspected or accused of security offences unless the transfer is carried out under judicial supervision and in full observance of due legal process.
- Ensure that anyone subject to transfer has the right to challenge its legality before an independent tribunal, and that they have access to an independent lawyer and an effective right of appeal.
- Do not receive into custody anyone suspected or accused of security offences unless the transfer is carried out under judicial supervision and in full observance of due legal process.
- Information on the numbers, nationalities and current whereabouts of all terror suspects rendered, extradited or otherwise transferred into custody from abroad should be publicly available. Full personal details should be promptly supplied to the families and lawyers of the detainees, and to the International Committee of the Red Cross (ICRC).
- Bring all such detainees before a judicial authority within 24 hours of entry into custody.
- Ensure that detainees have prompt access to legal counsel and to family members, and that lawyers and family members are kept informed of the detainee's whereabouts.
- Ensure that detainees who are not nationals of the detaining country have access to diplomatic or other representatives of their country of nationality or former habitual residence.

No 'disappearances', no secret detention

- End immediately the practices of incommunicado and secret detention wherever and under whatever agency it occurs.
- Hold detainees only in officially recognized places of detention with access to family, legal counsel and courts.
- Ensure that those responsible for "disappearances" are brought to justice, and that victims and families receive restitution, compensation and rehabilitation.
- Investigate any allegations that their territory hosts or has hosted secret detention facilities, and make public the results of such investigations.

No torture or other ill-treatment

- Ensure that interrogations are carried out in accordance with international standards, in particular without any use of torture or other cruel, inhuman or degrading treatment.
- Investigate all complaints and reports of torture or other ill-treatment promptly, impartially and effectively, using an agency independent of the alleged perpetrators, and ensure that anyone found responsible is brought to justice.
- Ensure that victims of torture obtain prompt reparation from the state including restitution, fair and adequate financial compensation and appropriate medical care and rehabilitation.

No diplomatic assurances

- Prohibit the return or transfer of people to places where they are at risk of torture or other ill-treatment.
- Do not require or accept “diplomatic assurances” or similar bilateral agreements to justify renditions or any other form of involuntary transfers of individuals to countries where there is a risk of torture or other ill-treatment.

No renditions flights

- Identify to the aviation authorities any plane or helicopter used to carry out the missions of the intelligence services as a state aircraft, even if the aircraft in question is chartered from a private company.
- Ensure that airports and airspace are not used to support and facilitate renditions or rendition flights.
- Maintain and update a register of aircraft operators whose planes have been implicated in rendition flights, and require them to provide detailed information before allowing them landing or flyover rights. Such information should include: the full flight plan of the aircraft, including onward stops and full itinerary, the full names and nationalities of all passengers on board, and the purposes of their travel.
- If any passengers are listed as prisoners or detainees, more detailed information about their status and the status of their flight should be required, including their destination and the legal basis for their transfer.
- Refuse access to airspace and airfields if requested information is not provided.
- If there are grounds to believe that an aircraft is being used in connection with renditions or other human rights violations, board the plane or require it to land for inspection.
- If such inspection indicates that the flight is being used for the unlawful transfer of people, or other human rights violations, the flight should be held until the lawfulness or otherwise of its purpose can be established, and appropriate law enforcement action taken.

Additional recommendations to the US government:

- Ensure that anyone held in US custody in any part of the world can exercise the right to legal representation and to a fair and transparent legal process;
- Disclose the location and status of the detention centres where Muhammad Abdullah Salah al-Assad, Muhammad Faraj Ahmed Bashmilah and Salah Nasser Salim 'Ali Qaru were held between October 2003 and May 2005;
- Disclose the identities and whereabouts of all others held in secret locations and their legal status, and invite the ICRC to have full and regular access to all those detained;
- Release all detainees in US custody at undisclosed locations unless they are to be charged with internationally recognizable criminal offences and brought to trial promptly and fairly, in full accordance with relevant international standards, and without recourse to the death penalty;
- Promptly and thoroughly investigate all allegations of "disappearance", and bring those suspected of having committed, ordered or authorized a "disappearance" before the competent civil authorities for prosecution and trial.

Recommendations to private aircraft operators and leasing agents:

- Ensure that the company is aware of the end use of any aircraft it is leasing or operating;
- Do not lease or otherwise allow the operation of any aircraft where there is reason to believe it might be used in human rights violations, including rendition or associated operations;
- Develop an explicit human rights policy, ensuring that it complies with the UN Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights.

Appendix: Planes monitored

1. N 313P-N4476S

N313P-N4476S is a Boeing 737-7ET (BBJ) aircraft (m/n 33010) for which there are 396 recorded landings or taking offs between 22 November 2002 and 8 September 2005. Flight records show that it was the plane that took Khaled el-Masri from Skopje to Afghanistan in January 2004, and Human Rights Watch has identified it as the “plane that the CIA used to move several prisoners to and from Europe, Afghanistan, and the Middle East in 2003 and 2004 – it landed in Poland and Romania on direct flights from Afghanistan on two occasions in 2003 and 2004.”

Registration: First registered by Stevens Express Leasing Inc, and then re-registered on 1 May 2002 by Premier Executive Transport Services. Keeler & Tate Management re-registered the aircraft on 1 December 2004, as N4476S. This is the only aircraft registered under this company name.

Landing rights: Stevens Express Leasing Inc. and Premier Executive Transport Services were both permitted to land at US military bases worldwide. Their permits expired in 2005 and have not been renewed.

Range and capacity: average range of 5,510 nautical miles at 522/542 knots (non-stop Washington Dulles-Tashkent in 11 hours, for example), and can transport up to 127 passengers.



N313P plane used in rendition flights. Later re-registered as N4476S. © Toni Marimon

Destinations: movements of N313P-N4476S include landings and take offs from the following airports:

COUNTRY	CITY / AIRPORT	PASSAGES THROUGH THE AIRPORT
AFGHANISTAN	KANDAHAR	1
AFGHANISTAN	KHWAJA RAWASH (KABUL)	9
ALGERIA	ALGIERS	3
AZERBAIJAN	BAKU	1
BAHRAIN	BAHRAIN	1
CROATIA	DUBROVNIK	2
CYPRUS	LARNACA	8
CZECH REPUBLIC	PRAGUE	6
ESTONIA	PARNU	3
FIJI	NADI, VITI LEVU	2
GERMANY	FRANKFURT	73
GERMANY	RAMSTEIN	3
GREECE	ATHENS	1
IRAQ	BAGHDAD	10
IRELAND	DUBLIN	2
IRELAND	SHANNON	23
ITALY	PISA	2
JORDAN	AMMAN	20
KUWAIT	KUWAIT	6
LIBYA	MITIGA	17
LIBYA	TRIPOLI	2
MACEDONIA	SKOPJE	2
MALTA	VALLETTA	2
MOROCCO	RABAT	8
PAKISTAN	ISLAMABAD	5
PAKISTAN	KARACHI	1
PORTUGAL	PORTO (OPORTO)	5
PORTUGAL	SANTA MARIA (AZORES)	2
ROMANIA	BUCHAREST	1
ROMANIA	TIMISOARA	1
RUSSIA	MOSCOW	1
SAUDI ARABIA	RIYADH	1
SPAIN	PALMA DE MALLORCA	8
SWITZERLAND	GENEVA	2
UNITED ARAB EMIRATES	ABU DHABI	1
UNITED ARAB EMIRATES	DUBAI	4
UNITED KINGDOM	GLASGOW	19
UNITED KINGDOM	LONDON GATWICK	1
UNITED KINGDOM	LUTON	9
UNITED KINGDOM	MANCHESTER	2
UNITED KINGDOM	MILDENHALL	3
UNITED KINGDOM	NORTHOLT	9
UNITED KINGDOM	OXFORD BRIZE NORTON	3
UNITED KINGDOM	PROVIDENCIALES (TURKS AND CAICOS)	8
UNITED STATES OF AMERICA	GUANTÁNAMO BAY US NAVAL AIR STATION, CUBA	7
UZBEKISTAN	TASHKENT	1

2. N379P-N8068V-N44982

The Gulfstream V executive jet, variously registered as N379P, N8068V and N44982 has been the plane most often identified with known cases of rendition. AI has records of 590 landings and take offs between February 2001 and September 2005.

Registration: registered in February 2000 by Premier Executive Transport Services; it was re-registered as N8068V at the beginning of 2004; and again re-registered as N44982 in December 2004 by Bayard Foreign Marketing, a phantom company registered in Oregon State since August 2003. No other aircraft were registered by Bayard Foreign Marketing. The aircraft was put up for sale in late 2005, and is now the property of a company based in Miami, Florida.⁶³

Landing rights: Premier Executive Transport Services aircraft were permitted to land in the US bases worldwide (expiration 15 October 2005).

Range and capacity: average range of 5,800 nautical miles at 459/585 knots (non-stop Washington Dulles-Kabul in 12 hours, for example). The aircraft can transport up to 18 passengers, but it is usually configured for 8 passengers.



N8068V plane used in rendition flights. Earlier registered as N379P and later re-registered as N44982.
© Jean Luc Altherr

⁶³ See an advertisement for the sale of this Gulfstream V executive jet at US Aircraft Sales: <http://www.usaircraftsales.com/Forsale/SPECS%20GV%20581%20%202.pdf>.

Destinations: movements of N379P-N8068V-N44982 include landings and take offs from the following airports:

COUNTRY	CITY / AIRPORT	PASSAGES THROUGH THE AIRPORT
AFGHANISTAN	KHWAJA RAWASH (KABUL)	5
ALGERIA	ALGIERS	1
AZERBAIJAN	BAKU	1
BAHRAIN	MUHARRAQ MILITARY AIRPORT	1
CYPRUS	LARNACA	10
CYPRUS	PAPHOS	2
CZECH REPUBLIC	PRAGUE	11
DJIBOUTI	DJIBOUTI	2
EGYPT	CAIRO	14
GAMBIA	BANJUL	2
GERMANY	FRANKFURT	70
GERMANY	MUNICH	2
GERMANY	RAMSTEIN	2
GERMANY	STUTT GART	2
GREECE	ATHENS	7
IRAQ	BAGHDAD	6
IRELAND	SHANNON	22
ITALY	ROME	4
ISRAEL	TEL AVIV	4
JORDAN	AMMAN	18
KUWAIT	KUWAIT	3
LIBYA	MITIGA	2
MALAYSIA	KUALA LUMPUR	1
MOROCCO	MARRAKECH	2
MOROCCO	RABAT	7
NETHERLANDS	AMSTERDAM	1
PAKISTAN	KARACHI	2
POLAND	WARSAW	2
PORTUGAL	LISBON	1
PORTUGAL	PORTO (OPORTO)	15
QATAR	DOHA	2
SAUDI ARABIA	RIYADH	2
SPAIN	PALMA DE MALLORCA	3
SPAIN	SANTA CRUZ DE TENERIFE (CANARY ISLANDS)	3
SWITZERLAND	GENEVA	3
THAILAND	BANGKOK	1
TURKEY	DIYARBAKIR	2
UNITED ARAB EMIRATES	ABU DHABI	1
UNITED ARAB EMIRATES	DUBAI	4
UNITED KINGDOM	GLASGOW	20
UNITED KINGDOM	LUTON	4
UNITED KINGDOM	OXFORD BRIZE NORTON	2
UNITED KINGDOM	PRESTWICK	36
UNITED KINGDOM	PROVIDENCIALES (TURKS AND CAICOS)	6
UNITED STATES OF AMERICA	GUANTÁNAMO BAY US NAVAL AIR STATION, CUBA	20
UZBEKISTAN	KARSHI AIRBASE	1
UZBEKISTAN	TASHKENT	13

3. N829MG-N259SK

A Gulfstream III (Grumman G-1159A), this plane carried Canadian national Maher Arar from the US to Jordan, where he was transferred overland to Syria. He was tortured during 13 months of detention without charge, and was released in October 2003. The plane has also made over 100 trips to Guantánamo Bay. There are 380 relevant FAA recorded landings or takeoffs between March 2001 and May 2005.

Registration: registered by MJG Aviation in October 2000 in Florida; the company dissolved July 2004. MJG's owner also owned Presidential Aviation, a company first registered in Florida in 1998 and dissolved November 2004. The aircraft was re-registered as 259SK in March 2004 by S&K Aviation LLC. S&K Aviation was first registered in Florida in December 2003 and is an active company with a registered agent.

Range and capacity: average range of 3,715 nautical miles. The aircraft can transport up to 22 passengers, but it is usually configured for 10/12 people.



Gulfstream III: N829MG (Later re-registered as N259SK). © Sam Chui

Destinations: Recorded movements of N829MG-N259SK include landings and take offs from the following airports:

COUNTRY	CITY / AIRPORT	PASSAGES THROUGH THE AIRPORT
BELGIUM	ANTWERP	1
CANADA	GANDER, NEWFOUNDLAND	10
FRANCE	LE BOURGET	2
GERMANY	FRANKFURT	1
GERMANY	FRANKFURT-HAHN	1
GERMANY	NURNBERG	1
IRELAND	SHANNON	2
ITALY	ROME	3
JORDAN	AMMAN	2
NETHERLANDS	AMSTERDAM	2
NETHERLANDS	GRONINGEN	1
PORTUGAL	SANTA MARIA (AZORES)	6
SPAIN	MALAGA	2
UNITED KINGDOM	BIGGIN HILL	2
UNITED KINGDOM	HAMILTON US NAVAL AIR STATION, BERMUDA	6
UNITED KINGDOM	LONDONDERRY	2
UNITED KINGDOM	PROVIDENCIALES (TURKS AND CAICOS)	7
UNITED STATES OF AMERICA	GUANTÁNAMO BAY US NAVAL AIR STATION, CUBA	2
UNITED STATES OF AMERICA	TETERBORO	3
UNITED STATES OF AMERICA	WASHINGTON, DC	2

4. N85VM-N227SV

The Gulfstream IV plane that took Abu Omar to Egypt from Germany after his kidnapping in Italy. Its owners have admitted leasing the plane to the CIA, but have said it is not used exclusively by the agency. There are 488 relevant recorded landings or takeoffs between February 2001 and July 2005.

Registration: owned by Assembly Point Aviation Inc., registered May 1995 in New York State. The aircraft was registered as N85VM until September 2004, when it was re-registered as N227SV. Operated by Richmor Aviation, a company based at the Columbia County airport (Hudson, New York) and Scotia (New York). Richmor Aviation owns or manages a fleet of about 15 business jets.

Landing rights: Richmor Aviation aircraft were permitted to land at US military bases worldwide (expiration February 15, 2005).

Range and capacity: average range of 3,633 nautical miles at 460/582 knots; can transport up to 19 passengers, but it is usually configured for 8/14 passengers.



Gulfstream IV: N227SV plane used in rendition flights. Earlier registered as N85VM. This aircraft is currently available for charter at a rate of US\$5365 per hour. © Wallace

Destinations: Recorded movements of N85VM-N227SV include landings and take offs from the following airports:

COUNTRY	CITY / AIRPORT	PASSAGES THROUGH THE AIRPORT
AFGHANISTAN	KHWAJA RAWASH (KABUL)	1
AZERBAIJAN	BAKU	2
BAHRAIN	MUHARRAQ MILITARY AIRPORT	2
CANADA	GANDER, NEWFOUNDLAND	2
CYPRUS	LARNACA	1
CYPRUS	PAPHOS	2
CZECH REPUBLIC	PRAGUE	3
EGYPT	CAIRO	1
EGYPT	SHARM EL SHEIKH	1
FINLAND	HELSINKI	1
FRANCE	LE BOURGET	4
GERMANY	FRANKFURT	10
GERMANY	KOLN-BONN	2
GERMANY	RAMSTEIN	1
ICELAND	KEFLAVIK	1
IRELAND	DUBLIN	1
IRELAND	SHANNON	30
ITALY	ROME	1
JAPAN	OSAKA	1
KUWAIT	KUWAIT	1
MOROCCO	RABAT	7
NORWAY	EVENES	2
PORTUGAL	LISBON	2
PORTUGAL	SANTA MARIA (AZORES)	4
SPAIN	BARCELONA	1
SPAIN	PALMA DE MALLORCA	3
SPAIN	SAN CRISTOBAL (CANARY ISLANDS)	2
SPAIN	SANTA CRUZ DE TENERIFE (CANARY ISLANDS)	2
SWITZERLAND	GENEVA	2
SWITZERLAND	ZURICH	2
UNITED ARAB EMIRATES	DUBAI	3
UNITED KINGDOM	BELFAST	2
UNITED KINGDOM	EDINBURGH	1
UNITED KINGDOM	GLASGOW	2
UNITED KINGDOM	HAMILTON US NAVAL AIR STATION, BERMUDA	2
UNITED KINGDOM	LEUCHARS	10
UNITED KINGDOM	LONDON STANSTED	1
UNITED KINGDOM	LONDONDERRY	1
UNITED KINGDOM	LUTON	6
UNITED KINGDOM	PROVIDENCIALES (TURKS AND CAICOS)	21
UNITED STATES OF AMERICA	GUANTÁNAMO BAY US NAVAL AIR STATION, CUBA	114

