

BRIEFING

Investigations into CIA Rendition and Torture

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More than 50 countries cooperated with the secret program of rendition and torture launched by the United States Central Intelligence Agency in response to the terror attacks on the United States of September 11, 2001, which killed more than 3,000 people. The following summary offers a snapshot of the most substantive investigations subsequently launched into the program, and legal efforts to hold those responsible for human rights abuses accountable.

Dick Marty and the Council of Europe: In 2005, parliamentarians at the Council of Europe set up an investigation, following reports in the US media that the CIA had been operating secret detention centers for terror suspects in Europe. Headed by Dick Marty, a Swiss senator, the investigation's [first report in 2006](#) named more than 20 countries (including Poland and Romania) that had cooperated with a program of secret CIA flights moving suspects to and from the so-called "black sites". [Its second report in 2007](#) provided further details confirming that Poland and Romania had hosted secret CIA prisons from 2003 to 2005.

Fava Inquiry and the European Parliament: In January 2006, the European Parliament set up a separate inquiry led by Claudio Fava, an Italian MEP. [His report concluded](#) that the CIA operated nearly 1,245 flights through European airspace between 2001 and 2005. A subsequent parliamentary resolution criticized the lack of effective controls over member states' rules of cooperation with foreign secret services.

Germany: The abduction of [Khaled El-Masri](#), a German citizen wrongly abducted by the CIA and interrogated for four months, led to a three-year inquiry by German parliamentarians, who concluded that El-Masri's claims of abuse were credible. The Munich state prosecutor's office announced in January 2007 that it had issued arrest warrants for 13 CIA agents suspected of involvement in El-Masri's rendition. Following pressure from the U.S. administration, the German government declined to seek the extradition of the suspects from the US.

On December 13, 2012, the Grand Chamber of the European Court of Human Rights [condemned El-Masri's arbitrary arrest, detention and interrogation](#), and found that his treatment by CIA agents at Skopje airport in Macedonia involved degrading ill-treatment amounting to torture. The ruling further found that El-Masri's allegations of mistreatment throughout the more than four months he remained in U.S. custody were "established beyond reasonable doubt." The court held that Macedonia had failed to conduct an effective investigation into El Masri's case ordered it to pay him damages.

Spain: A separate investigation into the El-Masri case was launched by prosecutors in Spain, on the grounds the CIA rendition plane that transported El-Masri had stopped in Mallorca in 2004, with CIA operatives using hidden identities without official permission. In 2010, [Spanish prosecutors also requested arrest warrants for the 13 CIA operatives involved in his rendition](#).

Italy: September 2012, Italy's highest court upheld criminal convictions of 23 U.S. and two Italian officials involved in the abduction and extraordinary rendition of Egyptian national Usama Mostafa Hassan Nasr (known as Abu Omar) to Egypt, where he was tortured. In February 2013, a Milan appeals court

convicted 3 other U.S. officials involved in Abu Omar's extraordinary rendition. Later that month, Italy's former military intelligence chief was sentenced to 10 years in jail, and his former deputy to nine years for involvement in the same case. In April 2013, Italian president Giorgio Napolitano pardoned a U.S. Air Force colonel previously convicted for the rendition.

Canada: The Canadian government established a Commission of Inquiry in 2004 to look into [the wrongful seizure and subsequent detention and torture of Maher Arar](#), a Canadian citizen who was detained at New York's JFK airport in September 2002 while in transit. Arar was interrogated for 2 weeks and then deported to his native Syria, where he was held for a year and tortured before being released. The inquiry exonerated Arar in 2006 and found that he had been tortured. He received C\$10.5 million and Stephen Harper, the prime minister, formally apologized to Arar. In 2010, the US courts rejected [a bid by Arar to sue members of the Bush administration](#), on national security grounds.

Poland: In 2008, five years after al Nashiri was secretly detained in the secret CIA prison in Poland, Polish prosecutors began a criminal investigation into the country's role in providing the CIA with a secret base for interrogation and detention of al-Qaeda suspects at Stare Kiejkuty military base in northeastern Poland. The terms of reference of the investigation were not fully disclosed. Three years into the investigation, in May 2011, the prosecutor in the case Jerzy Mierzewski was replaced without explanation by another prosecutor, Waldemar Tyl. Four years into the investigation, after Waldemar Tyl reportedly brought charges against former head of Polish military intelligence Zbigniew Siemiątkowski, the investigation was once again transferred without any public explanation from the prosecutor's office in Warsaw to the prosecutor's office in Krakow.

United Kingdom: In the UK, the government settled a civil suit brought by [Binyam Mohamed](#) and others who had been seized by the US in Afghanistan in 2001 and held at Guantanamo Bay. The suit, alleging involvement of British intelligence in torture and mistreatment, was apparently dropped by the UK to avoid bringing intelligence material provided by the US into open court. The UK government subsequently set up a public inquiry (Gibson inquiry) into the security services' collusion with torture. This [was closed down in January 2012 after NGOs and detainee lawyers raised objections to the defects in the inquiry. In January 2012](#), UK police said they were pursuing criminal investigations in the cases of two Libyans (Belhadj and Sami al-Saadi), who assert they were tortured after being seized in 2004 with UK support and shipped to Libya.

Sweden: In 2001, two Egyptian nationals, Mohammed Alzery and Ahmed Agiza, were deported from Sweden and transferred by the CIA to Egypt where they faced subsequent torture and abuse. In October 2006 the UN Human Rights Committee found that Sweden had violated Alzery's rights by standing by as he was brutally

prepared for the CIA rendition flight. The UN Committee against Torture ruled in 2005 that in Agiza's case, Sweden had exposed him to the risk of torture in Egypt. The decision to expel the two men was also examined by Sweden's Ombudsman, and in 2008, the Swedish government awarded Agiza and Alzery around \$500,000 each as compensation.

United States: The United States has not conducted an effective criminal investigation into the CIA's secret detention and extraordinary rendition practices. In August 2009, Attorney General Eric Holder appointed Assistant U.S. Attorney John Durham to conduct a "preliminary review into whether federal laws were violated in connection with the interrogation of specific detainees at overseas locations." The investigation was restricted to unauthorized interrogation methods applied by the CIA. Holder made clear that "the Department of Justice will not prosecute anyone who acted in good faith and within the scope of the legal guidance given by the Office of Legal Counsel regarding the interrogation of detainees." Acts of torture, including waterboarding, that had previously been authorized by the OLC and applied on detainees by the CIA, did not fall within the scope of the investigation.

On June 30, 2011, the Justice Department announced that it had accepted Durham's recommendation to open a full criminal investigation into the deaths of only two terrorism suspects in CIA custody overseas, and that the department would close inquiries into CIA involvement in the treatment of 99 other detainees. The two cases put forward for investigation were reportedly those of an Afghan, Gul Rahman, who died in 2002 at a prison known as the "Salt Pit" in Afghanistan, and an Iraqi, Manadel al-Jamadi, who was interrogated by three CIA officers at Abu Ghraib in 2003. In August 2012, Attorney General Holder summarily announced that the Justice Department would not pursue criminal charges in the two cases "because the admissible evidence would not be sufficient to obtain and sustain a conviction beyond a reasonable doubt."

In December 2012, the Senate Select Committee on Intelligence voted to approve a comprehensive 6000 page long report entitled "Study of the Central Intelligence Agency's Detention and Interrogation." The committee chairman, Senator Dianne Feinstein, stated that she and a majority of the committee believed that the creation of long-term clandestine black sites and the use of so-called enhanced interrogation techniques were "terrible mistakes." She added that the report would "settle the debate once and for all over whether our nation should ever employ coercive interrogation techniques such as those detailed in the report." The report continues to be withheld from the public.

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