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Fact Sheet: Extraordinary Rendition

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Beginning in the early 1990s and continuing to this day, the Central Intelligence Agency, together with other U.S. government agencies, has utilized an intelligence-gathering program involving the transfer of foreign nationals suspected of involvement in terrorism to detention and interrogation in countries where – in the CIA’s view – federal and international legal safeguards do not apply. Suspects are detained and interrogated either by U.S. personnel at U.S.-run detention facilities outside U.S. sovereign territory or, alternatively, are handed over to the custody of foreign agents for interrogation. In both instances, interrogation methods are employed that do not comport with federal and internationally recognized standards. This program is commonly known as “extraordinary rendition.”

The current policy traces its roots to the administration of former President Bill Clinton. Following the attacks of September 11, 2001, however, what had been a limited program expanded dramatically, with some experts estimating that 150 foreign nationals have been victims of rendition in the last few years alone. Foreign nationals suspected of terrorism have been transported to detention and interrogation facilities in Jordan, Iraq, Egypt, Diego Garcia, Afghanistan, Guantánamo, and elsewhere. In the words of former CIA agent Robert Baer: “If you want a serious interrogation, you send a prisoner to Jordan. If you want them

Administration officials, backed by Department of Justice legal memoranda, have consistently advanced the position that foreign nationals held at such facilities, outside U.S. sovereign territory, are unprotected by federal or international laws. Thus, the rendition program has allowed agents of the United States to detain foreign nationals without any legal process and, primarily through counterparts in foreign intelligence agencies, to employ brutal interrogation methods that would be impermissible under federal or international law, as a means of obtaining information from suspects.

The Department of Justice's arguments notwithstanding, the extraordinary rendition program is illegal. It is clearly prohibited by the United Nations Convention Against Torture and Other Forms of Cruel, Inhuman, or Degrading Treatment, ratified by the United States in 1992, and by congressionally enacted policy giving effect to CAT. As Congress made clear, it is the policy of the United States not to:

expel, extradite, or otherwise effect the involuntary return of any person to a country in which there are substantial grounds for believing the person would be in danger of being subjected to torture, *regardless of whether the person is physically present in the United States.*

Foreign Affairs Reform and Restructuring Act of 1998, ("FARRA"), Pub. L. No. 105-277, § 2242, 112 Stat. 2681 (Oct. 21, 1998), reprinted in 8 U.S.C. § 1231, Historical and Statutory Notes (1999) (emphasis added).

Congress has recently reaffirmed this policy, providing in an amendment to the Emergency Supplemental Appropriations Act for the Iraq War and Tsunami Relief, 2005 (P.L. 109-13) that it will not authorize the funding of any program that "subject[s] any person in the custody or under the physical control of the United States to torture or cruel, inhuman, or degrading treatment or punishment that is prohibited by the Constitution, laws, or treaties of the United States." P.L. 109-13, § 1031 (2005). The President, too, has confirmed that it is the policy and practice of the United States neither to use torture nor to hand over detainees to countries that use torture. See www.whitehouse.gov/news/releases/2005/04/20050428-9.html.

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