

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

Khaled El-Masri,)
)
 Plaintiff,)
) Civil Action No.
 v.) 1:05cv1417-TSE-TRJ
)
 George Tenet, *et al.*,)
)
 Defendants.)

DECLARATION OF STEVEN MACPHERSON WATT IN SUPPORT OF
PLAINTIFF'S OPPOSITION TO THE UNITED STATES' MOTION TO DISMISS OR,
IN THE ALTERNATIVE, FOR SUMMARY JUDGMENT

I, Steven Macpherson Watt, under penalty of perjury, declare as follows, pursuant to 28 U.S.C. § 1746:

1. I am a human rights adviser to the American Civil Liberties Union. I submit this declaration in support of Plaintiff Khaled El-Masri's Opposition to the United States' Motion to Dismiss or, in the Alternative, for Summary Judgment.

2. Specifically, I submit this declaration to demonstrate the significant number of documents in the public domain regarding the Central Intelligence Agency's rendition program, and Mr. El-Masri's rendition in particular. These documents comprise, *inter alia*, official unclassified U.S. government documents detailing the program, public statements by U.S. government officials describing in detail the parameters of the program, and documentation from international inter-governmental and national parliamentary inquiries and criminal investigations into European states' involvement in the U.S. rendition program. In addition, since Mr. El-Masri went public with his

allegations, more than 300 articles in major newspapers have described his case, as have numerous U.S. and international television documentary programs. The documentation referenced in this declaration represents just a fraction of an extensive and growing number of documents describing the U.S. rendition program that are currently publicly available.

3. Since September 11, 2001, senior officials within the U.S. government, including senior intelligence officials, have spoken publicly about the rendition program.

4. On departing for Germany on an official state visit the day before this action was commenced, Secretary of State Condoleezza Rice defended the rendition program as “a vital tool in combating transnational terrorism.” She explained that the United States “must track down terrorists who seek refuge in areas where governments cannot take effective action, including where the terrorists cannot in practice be reached by the ordinary processes of law.” She continued: “For decades, the United States and other countries have used ‘renditions’ to transport terrorist suspects from the country where they were captured to their home country or to other countries where they can be questioned, held, or brought to justice.” The U.S., she said, did not “have the luxury of only using law enforcement techniques,” but required other options when it was unable to “prosecute someone that is a known terrorist or a suspected terrorist....” She added:

In some situations, a terrorist suspect can be extradited according to traditional judicial procedures. But there have long been many other cases where, for some reason, the local government cannot detain or prosecute a suspect, and traditional extradition is not a good option. In those cases the local government can make a sovereign choice to cooperate in a rendition.

Secretary Rice denied that individuals were rendered to permit coercive interrogation techniques: “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.” Secretary Rice explained that persons detained by the United States may “be held for an extended period if the intelligence or other evidence against them has been carefully evaluated and supports a determination that detention is lawful.” She confirmed that foreign governments play a role in the process: “Some governments choose to cooperate with the United States in its intelligence, law enforcement, or military matters,” and in return for their cooperation, the United States shares intelligence it gathers. Attached hereto as Exhibit A is a true and correct copy of Secretary of State Condoleezza Rice’s *Remarks Upon Her Departure for Europe*, Andrews Air Force Base, (Dec. 5, 2005) transcript available at <http://www.state.gov/secretary/rm/2005/57602.htm>.

5. In a press briefing the following day, Secretary Rice and German Chancellor Merkel fielded questions on renditions in general and on Mr. El-Masri’s alleged rendition in particular. In relation to El-Masri’s case, Secretary Rice stated:

When and if mistakes are made, we work very hard and as quickly as possible to rectify them. Any policy will sometimes have mistakes and it is our promise to our partners that should that be the case, that we will do everything that we can to rectify those mistakes. I believe that this will be handled in the proper courts here in Germany and if necessary in American courts as well.

Attached hereto as Exhibit B is a true and correct copy of the *Joint Press Briefing by Condoleezza Rice and Angela Merkel*, (Dec. 6, 2005) transcript available at <http://www.state.gov/secretary/rm/2005/57672.htm>.

6. Chancellor Merkel later confirmed that she and Secretary Rice had spoken specifically about Mr. El-Masri’s case, and related that “the American Government, the

American Administration, has admitted that this man had been erroneously taken and that as such the American Administration is not denying that it has taken place.” *Id.*

7. On the same day, in Washington D.C., White House Press Secretary Scott McClellan, citing Secretary Rice’s comments, reiterated that the United States has long engaged in renditions of terror suspects, and denied that those suspects were tortured. Attached hereto as Exhibit C is a true and correct copy of the *Press Briefing by Scott McClellan*, (Dec. 6, 2005) transcript *available at* <http://www.whitehouse.gov/news/releases/2005/12/print/20051206-3.html>.

8. During a public meeting in Australia, Secretary Rice confirmed that “the practice of rendition is something that’s been practiced way before September 11th when extradition isn’t an option because sometimes you have to take people off the streets.” Attached hereto as Exhibit D is a true and correct copy of Secretary of State Condoleezza Rice’s *Remarks at Town Hall Meeting with University of Sydney Students*, (March 16, 2006) transcript *available at* <http://www.noticias.info/asp/aspComunicados.asp?nid=156045&src=0>.

9. During the 9/11 Commission of Inquiry, intelligence officials, including defendant Tenet, gave both written and oral testimony on the program. Christopher Kojm, who from 1998 until February, 2003 served as Deputy Assistant Secretary for Intelligence Policy and Coordination in the U.S. State Department’s Bureau of Intelligence and Research, described the CIA’s role in liaising with foreign government intelligence agencies to effect renditions, stating that the Agency “plays an active role, sometimes calling upon the support of other [government] agencies for logistical or transportation assistance” but remaining the “main player” in the process. Attached

hereto as Exhibit E is a true and correct copy of *Intelligence Policy and National Policy Coordination: Hearing of the National Commission on Terrorist Attacks Upon the United States*, (March 24, 2004) (statement by Christopher Kojm, Deputy Executive Director, National Commission on Terrorist Attacks Upon the United States, and former Deputy Assistant Secretary of State), transcript *available at* http://www.9-11commission.gov/archive/hearing8/9-11Commission_Hearing_2004-03-24.pdf.

10. In a written statement submitted to the 9/11 Joint Inquiry Committee, defendant Tenet described the CIA's role in pre-September 11 renditions. He explained that:

During the Millennium threat period . . . [o]ver a period of months, there was close, daily consultation that included Director Freeh, the National Security Adviser, and the Attorney General. We identified 36 additional terrorist agents at the time around the world. We pursued operations against them in 50 countries. Our disruption activities succeeded against 21 of these individuals, and included arrests, renditions, detentions, surveillance, and direct approaches.

The CIA, he explained, worked "with numerous European governments, such as the Italians, Germans, French, and British," and "[by] 11 September, the CIA (in many cases with the FBI) had rendered 70 terrorists to justice around the world." Attached hereto as Exhibit F is a true and correct copy of *Written Statement for the Record of the Director of Central Intelligence Before the Joint Inquiry Committee*, (October 17, 2002) *available at* http://www.cia.gov/cia/public_affairs/speeches/2002/dci_testimony_10172002.html.

11. In the written statement he submitted to the 9/11 Commission of Inquiry, defendant Tenet elaborated upon a number of specific instances of CIA involvement in renditions, including assisting "another foreign partner in the rendition of a senior Bin Laden associate" and assisting the Jordanian government in "render[ing] to justice" "terrorist cells that planned to attack religious sites and tourist hotels." Attached hereto

as Exhibit G is a true and correct copy of *Written Statement for the Record of the Director of Central Intelligence Before the National Commission on Terrorist Attacks Upon the United States*, (March 24, 2004) available at http://www.9-11commission.gov/hearings/hearing8/tenet_statement.pdf.

12. Based upon the testimony taken and written statements received, the 9/11 Commission staff developed initial findings that they later made available to the public. Under the heading “Rendition,” these findings reveal that officials of the CIA, FBI, State Department, and foreign governments cooperated in the rendition of suspected terrorists. Specifically, they conclude that “the CIA helps to catch and send [the suspect] to the United States or a third country,” and that renditions were “an important component of U.S. counterterrorism policy throughout the period leading up to 9/11” and “are still widely used today.” Attached hereto as Exhibit H is a true and correct copy of *Staff Statement No. 7, National Commission on Terrorist Attacks Upon the United States*, available at http://www.9-11commission.gov/staff_statements/staff_statement_7.pdf.

13. Current CIA Director Porter Goss has testified about the rendition program in an open session of the Senate Armed Services Committee. In response to Senator Kennedy’s questions about the existence of the rendition program and the transfer of terrorist suspects by the CIA, Director Goss stated:

[O]n the subject of transferring dangerous terrorists and how that all comes about, there are obviously a number of equities involved. We have liaison sources, we have our other government agencies. The idea of moving people around, transferring people for criminal or other reasons, by government agencies is not new. For us in the intelligence business, the idea of helping out dealing with terrorists has been around for about 20 years. And we do have policies and programs on how to do it. We also have liaison partners who make requests of us, and we try to respect not only the sovereign rights of other countries, but all of the conventions and our own laws and, of course, the Constitution. And as far as I know, we do that.

Attached hereto as Exhibit I is a true and correct copy of *Threats to U.S. National Security: Hearing of the Senate Armed Services Committee*, 109th Cong. 4, (March 17, 2005) (Responses to Senators McCain and Kennedy), transcript *available at* http://www.humanrightsfirst.org/us_law/etn/docs/fedwires125g.htm.

14. Former senior CIA operatives have spoken openly and in detail about the rendition program. Michael Scheuer, a 22-year veteran of the CIA and Chief of the Bin Laden Unit at the Counterterrorist Center from 1996 to 1999, was an architect of the rendition program. Scheuer has described the program's origins and its current manifestation: "The direction [from the politicians] was find, apprehend and hold senior members of Al Qaeda and try to find out what they know about coming attacks against the United States." He said also that, presently, "the U.S. government is willing to hold these people at various incarceration sites around the world." Attached hereto as Exhibit J are true and correct copies of *Interview of Michael Scheuer*, PBS Frontline, (Oct. 18, 2005) *available at* <http://www.pbs.org/wgbh/pages/frontline/torture/interviews/scheuer.html>, and Michael Scheuer, *A Fine Rendition*, NEW YORK TIMES, (March 11, 2005), at A23, (explaining that "[r]enditions were called for, authorized and legally vetted not just by the N.S.C. and the Justice Department, but also by the presidents – both Mr. Clinton and George W. Bush," and "if mistakes were made, like the alleged cases of innocent detainees, they should be corrected . . .").

15. Robert Baer, a former covert officer for the CIA who left the agency after 21 years, has confirmed that one goal of the rendition program is to employ harsher interrogation tactics: "If you send a prisoner to Jordan you get a better interrogation. If

you send a prisoner, for instance, to Egypt you will probably never see him again, the same way with Syria.” Attached hereto as Exhibit K is a true and correct copy of *Transcript of “File on Four” – Rendition*, BBC, (Feb. 8, 2005) available at http://news.bbc.co.uk/1/1/shared/bsp/hi/pdfs/15_02_05_renditions.pdf.

16. Members of Congress have publicly debated the parameters of the rendition program and proposed concrete legislative measures for its reform. In response to a letter from Senator Leahy expressing concerns about rendition and its failure to comport with U.S. obligations under the Convention Against Torture, William J. Haynes II, General Counsel of the Department of Defense wrote: “Should an individual be transferred to another country to be held on behalf of the United States, or should we otherwise deem it appropriate, United States policy is to obtain specific assurances from the receiving country that it will not torture the individual being transferred to that country.” Attached hereto as Exhibit L is a true and correct copy of the *Letter from William J. Haynes II to Senator Patrick Leahy*, (June 25, 2003) available at <http://hrw.org/press/2003/06/letter-to-leahy.pdf>.

17. Senator Leahy has introduced legislation to address the rendition of any individual by the United States to another country. Attached hereto as Exhibit M is a true and correct copy of *Convention Against Torture Implementation Act 2005* (S. 654), 109th Congress, (2005) available at http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=109_cong_bills&docid=f:s654is.txt.pdf. Representative Markey has introduced similar legislation in the House. Attached hereto as Exhibit N is a true and correct copy of *Torture Outsourcing Prevention Act* (H.R. 952), 109th Congress, (February 17, 2005) available at <http://www.theorator.com/bills109/hr952.html>. In

introducing the bill, Representative Markey stated: “Under the name ‘extraordinary rendition,’ the CIA reportedly sends terrorism suspects, sometimes on the flimsiest of evidence, to foreign countries that are known to employ torture in prisoner interrogation...” Attached hereto as Exhibit O is a true and correct copy of Representative Edward Markey’s Comments, *Introduction of Legislation Prohibiting Extraordinary Rendition*, House of Representatives, (June 23, 2004) available at www.fas.org/irp/congress/2004_cr/rendition.html.

18. The interest of members of Congress in the rendition program has also prompted a report from the Congressional Research Services that comprehensively details the history of the program, its current parameters, and the legal constraints on its use under domestic and international law. Attached hereto as Exhibit P is a true and correct copy of Congressional Research Services Report for Congress, *Renditions and Constraints Imposed by Laws on Torture*, (September 22, 2005) available at <http://www.fas.org/sgp/crs/natsec/RL32890.pdf>.

19. International Human Rights organizations in numerous reports have documented the existence of the program and cited in detail to many examples of its use around the world. Attached hereto as Exhibits Q are true and correct copies of Human Rights Watch, *Empty Promises: Diplomatic Assurances No Safeguard Against Torture*, (April 2004) available at <http://www.hrw.org/reports/2004/un0404/> (documenting specific rendition cases and discussing use and efficacy of “diplomatic assurances” in the process); Amnesty International, USA/Yemen, *Secret Detention in CIA “Black Sites,”* (November 8, 2005) available at [http://web.amnesty.org/library/pdf/AMR511772005ENGLISH/\\$File/AMR5117705.pdf](http://web.amnesty.org/library/pdf/AMR511772005ENGLISH/$File/AMR5117705.pdf)

(documenting U.S. and Yemeni governments involvement in renditions); Association of the Bar of the City of New York and Center for Human Rights and Global Justice, *Torture By Proxy: International and Domestic Law Applicable to "Extraordinary Renditions,"* (2004) available at <http://www.nyuhr.org/docs/TortureByProxy.pdf> (documenting U.S. involvement in numerous renditions, including Mr. El-Masri's, and setting forth applicable legal framework); and Amnesty International, USA, *Below the Radar: Secret Flights to Torture and Disappearance*, (April 5, 2006) available at <http://web.amnesty.org/library/Index/ENGAMR510512006> (describing use of privately owned aircraft in U.S. rendition program and specifically in Mr. El-Masri's case; documenting recent interview between Amnesty International researcher in Yemen and Walid al-Qadasi, a Yemeni national detained in Kabul by U.S. authorities in 2002, then at Guantánamo Bay, before being transferred to custody in Yemen, who identified Mr. El-Masri's sketch plan of the prison facility [Exh. F to Declaration of Khaled El-Masri] as the same facility in which he was held by U.S. authorities in 2002).

20. Concern among European nations about complicity in the rendition program through the operation of U.S.-run detention centers in certain European countries and the use of European airspace and airports by the CIA to facilitate the program has resulted in inter-governmental inquiries by the Council of Europe and European Parliament, as well as separate criminal investigations and public inquiries in 18 countries, including, *inter alia*, France, Italy, Spain, Sweden, United Kingdom, and Germany. Attached hereto as Exhibits R are true and correct copies of the following documents:

- i) Council Of Europe's Parliamentary Assembly Committee on Legal Affairs and Human Rights (Rapporteur Dick Marty), *Report On Alleged Secret Detentions*

In Council Of Europe Member States, (January 22, 2006) available at

http://assembly.coe.int/CommitteeDocs/2006/20060124_Jdoc032006_E.pdf;

- ii) European Parliament, TDIP Temporary Committee, *Working Document of Temporary Committee on the alleged use of European countries by the CIA for the transportation and illegal detention of prisoners*, (February 14, 2006) available at http://www.europarl.eu.int/meetdocs/2004_2009/documents/dt/580/580259/580259en.pdf;
- iii) Craig Whitlock, *Europeans Probe Secret CIA Flights: Questions Surround Possible Illegal Transfer of Terrorism Suspects*, WASHINGTON POST, (November 17, 2005), at A22, available at <http://www.washingtonpost.com/wp-dyn/content/article/2005/11/16/AR2005111602198.html> (reporting that officials in Spain, Sweden, Norway and European Parliament had opened formal inquiries or demanded answers from U.S. officials about CIA rendition flights within their respective jurisdictions);
- iv) Eric Decouty, *La France Enquete Sur Les Avions de la CIA*, LE FIGARO (France), (March 2, 2006) available at http://www.lefigaro.fr/france/20060302.FIG000000200_la_france_enquete_sur_les_avions_de_la_cia.html (reporting that Attorney General for Bobigny had opened criminal investigation into use of Bobigny airport by CIA for rendition flights);
- v) Craig Whitlock, *CIA Ruse Is Said to Have Damaged Probe in Milan: Italy Allegedly Misled on Cleric's Abduction*, WASHINGTON POST, (Dec. 6, 2005),

at A1, available at <http://www.washingtonpost.com/wp-dyn/content/article/2005/12/04/AR2005120400885.html> (reporting that prosecutors and judges in Milan have issued arrest warrants charging 22 alleged CIA operatives, including head of CIA Milan substation, with kidnapping and other crimes);

vi) Giles Tremlett, *Spanish Police Expose More CIA Links To Secret Flights Of Detainees*, THE GUARDIAN, (Nov. 15, 2005), at 18, available at <http://www.guardian.co.uk/spain/article/0,,1642828,00.html> (reporting that Spanish police have traced up to 42 suspected CIA operatives believed to have taken part in secret flights carrying detained or kidnapped Islamic terror suspects to interrogation centers and jails in Afghanistan, Egypt, and elsewhere);

vii) Craig Whitlock, *New Swedish Documents Illuminate CIA Action: Probe Finds 'Rendition' Of Terror Suspects Illegal*, WASHINGTON POST, (May 21, 2005), at A1, available at http://www.washingtonpost.com/wp-dyn/content/article/2005/05/20/AR2005052001605_pf.html (reporting on ten-month investigation into rendition of two Egyptian asylum seekers);

viii) Office Of The Swedish Parliamentary Ombudsman, *A Review Of The Enforcement By The Security Police Of A Government Decision To Expel Two Egyptian Citizens*, (March 22, 2005), available at http://www.jo.se/Page.aspx?MenuId=106&MainMenuId=106&Language=en&ObjectClass=DynamX_SFS_Decision&Id=1662 (finding that Swedish

security police cooperated with U.S. agents in rendition of two Egyptian asylum seekers to Egypt, where there was strong likelihood of torture);

ix) Richard Norton-Taylor and Ian Cobain, *MPs recall Straw as air traffic controllers confirm 200 CIA flights*, THE GUARDIAN, (February 23, 2006), at 5, available at <http://www.guardian.co.uk/usa/story/0,,1715866,00.html> (reporting on initiation of U.K. Parliamentary Inquiry into rendition flights);

x) *German spy probe to include CIA "kidnap," flights*, REUTERS, (March 10, 2006) available at http://today.reuters.com/news/newsArticle.aspx?type=worldNews&storyID=2006-03-10T150911Z_01_L10531306_RTRUKOC_0_US-GERMANY-USA-SPIES.xml&archived=False (reporting on commencement of German parliamentary inquiry into alleged kidnapping of Khaled El-Masri by CIA).

21. The United Nations has also examined the U.S. rendition program and is conducting further investigations into its implementation. The U.N. Committee Against Torture (CAT) has considered two cases relating to the rendition of two Egyptian asylum seekers from Sweden to Egypt on December 18, 2001. In the course of its deliberations, the CAT considered evidence of CIA involvement produced by the parties. In one of the cases, the CAT found Sweden in violation of article 3 (prohibition against rendition to torture) of the U.N. Convention Against Torture. Attached hereto as Exhibit S is a true and correct copy of the Decision of the CAT in *Agiza v. Sweden*, CAT/C/34/D/233/2003, (May 20, 2005) available at [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/4dec90a558d30573c1257020005225b9?OpenDocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/4dec90a558d30573c1257020005225b9?OpenDocument).

22. In addition, on August 30, 2005, the U.N. Special Rapporteur on Torture submitted a report to the U.N. General Assembly that includes an analysis of specific rendition cases and U.S. involvement therein. The report concludes that the renditions violated key provisions of the Convention Against Torture. Attached hereto as Exhibit T is a true and correct copy of the *Report of the U.N Special Rapporteur on Torture to the U.N. General Assembly*, (August 30, 2005) available at <http://daccessdds.un.org/doc/UNDOC/GEN/N05/476/51/PDF/N0547651.pdf?OpenElement>.

23. A Commission of Inquiry has been convened in Canada following the rendition of a Canadian citizen, Maher Arar, by U.S. officials to detention and interrogation in Syria. Public hearings commenced in May 2005. The Inquiry has resulted in the production of numerous official documents linking the decision to remove Mr. Arar to Syria to the United States. Attached hereto as Exhibit U is a true and correct copy of *Terms of Reference for the Public Inquiry into the Maher Arar Matter*, (February 5, 2004) available at http://www.ararcommission.ca/eng/Terms_of_Reference.pdf.

24. In August 2005, a legal memorandum drafted by the FBI analyzing interrogation techniques in place at Guantánamo became publicly available. The memorandum includes a legal analysis of rendition as one of four interrogation techniques employed on detainees at Guantánamo, and notes that one of the techniques contemplates the transfer of detainees from Guantánamo, “either temporarily or permanently, to Jordan, Egypt or another third country to allow those countries to employ interrogation techniques that will enable them to obtain the requisite information.” Attached hereto as Exhibit V are true and correct copies of Federal Bureau of

Investigation, *Memorandum on Legal Analysis of Interrogation Techniques*, (November 27, 2002), and Michael Isikoff, *Exclusive: Secret Memo – Send to Be Tortured*, NEWSWEEK, (August 8, 2005), at 7, available at <http://msnbc.msn.com/id/8769416/site/newsweek/?rf=technorati> (quoting unnamed senior U.S. law-enforcement official familiar who stated that “the memo reflects concerns among many agents and lawyers about ‘rendition.’”).

25. According to media reports, the Inspector General of the CIA is conducting an investigation of the rendition program and specific instances of mistakes that have been made in relation to its implementation. Attached hereto as Exhibit W is a true and correct copy of *CIA Watchdog Looks into ‘Erroneous Renditions’: Inspector general investigates cases of people mistaken as terror suspects*, ASSOCIATED PRESS, (December 27, 2005) available at <http://www.msnbc.msn.com/id/10618427/> (citing current intelligence official and reporting that CIA’s inspector general is investigating fewer than 10 cases of potentially “erroneous renditions”).

26. Media reports on the rendition program generally, and Mr. El-Masri’s rendition specifically, are too numerous to assemble. A Westlaw search confined to “El-Masri and rendition” in the period January, 2005 to April, 2006, revealed 297 news articles in that database alone. These articles have appeared on the front pages of the Washington Post, New York Times, and Los Angeles Times, and have been prominently featured in The New Yorker, Newsweek, and other major publications around the world. Mr. El-Masri’s case has been featured on CBS’ 60 Minutes, PBS Frontline, Dateline NBC, and ABC news. Attached hereto as Exhibits X are true and correct copies of the following newspaper articles and television documentary transcripts:

- i) Dana Priest & Barton Gellman, *U.S. Decries Abuse But Defends Interrogations: "Stress and Duress" Tactics Used on Terrorism Suspects Held in Secret Overseas Prisons*, WASHINGTON POST, (December 26, 2002), at A1, available at <http://www.washingtonpost.com/ac2/wp-dyn/A37943-2002Dec25?language=printer> (interviewing U.S. officials involved in renditions and quoting one official as saying: "We don't kick the [expletive] out of them. We send them to other countries so *they* can kick the [expletive] out of them.");
- ii) Don Van Natta, Jr. & Souad Mekhennet, *German's Claim of Kidnapping Brings Investigation of U.S. Link*, NEW YORK TIMES, (January 9, 2005), at 11, available at <http://www.nytimes.com/2005/01/09/international/europe/09kidnap.html?ex=1263013200&en=f9446887460b5463&ei=5088&partner=rssnyt> (first comprehensive account of Mr. El-Masri's story in U.S., describing his rendition and alleged involvement of CIA);
- iii) Jane Mayer, *Outsourcing Torture*, THE NEW YORKER, (February 14 and 21, 2005) available at http://www.newyorker.com/printables/fact/050214fa_fact6 (providing comprehensive accounting of rendition program from its initial inception to present);
- iv) Michael Hirsh, Mark Hosenball and John Barry, *Aboard Air CIA*, NEWSWEEK, (February 28, 2005) available at <http://www.msnbc.msn.com/id/6999272/site/newsweek/> (describing Mr. El-Masri's rendition and CIA's broader rendition program);

- v) Douglas Jehl & David Johnston, *Rule Change Lets CIA Freely Send Suspects Abroad to Jails*, NEW YORK TIMES, (March 6, 2005), at 11, available at <http://www.nytimes.com/2005/03/06/politics/06intel.html?ex=1267851600&en=716eddf5c82d9367&ei=5088&partner=rssnyt> (explaining that current rendition program was authorized by President George W. Bush six days after September 11, 2001);
- vi) *CIA Flying Suspects to Torture?*, 60 MINUTES (CBS television broadcast), (March 6, 2005) transcript available at <http://www.cbsnews.com/stories/2005/03/04/60minutes/main678155.shtml> (discussing rendition program and Mr. El-Masri's case, and describing U.S. modus operandi: "masked men in an unmarked jet seize their target, cut off his clothes, put him in a blindfold and jumpsuit, tranquilize him and fly him away.");
- vii) Dana Priest, *CIA Holds Terror Suspects in Secret Prisons*, WASHINGTON POST, (November 2, 2005), at A1, available at <http://www.washingtonpost.com/wp-dyn/content/article/2005/11/01/AR2005110101644.html> (describing establishment of network of CIA-run "black site" detention facilities worldwide; explaining that prisoners held within covert system were divided into two tiers: (1) major terrorism suspects, held at black sites; and (2) prisoners with limited intelligence value, who are transferred to custody of foreign governments);

viii) Dana Priest, *Wrongful Imprisonment: Anatomy of a CIA mistake*, WASHINGTON POST, (December 4, 2005), at A1, *available at* <http://www.washingtonpost.com/wp-dyn/content/article/2005/12/03/AR2005120301476.html> (describing in detail the decision-making process during Mr. El-Masri's rendition, including internal CIA discussions and role of German and Macedonian governments).

27. Much information about the role of private airline corporations in the rendition program has been uncovered by investigative journalists. Information is now widely available online identifying the role of particular corporations and aircraft in the renditions of specific individuals, including Mr. El-Masri. Attached hereto as Exhibits Y are true and correct copies of the following documents:

- i) Photographs of N4476S (formerly N313P), *available at* <http://www.airliners.net/search/photo.search?cnsearch=33010/1037&distinctentry=true>;
- ii) Federal Aviation Administration Registry for N4476S (formerly N313P), *available at* <http://registry.faa.gov/aircraftinquiry/NNumSQL.asp?NNumbertxt=4476S&status=is+not+Assigned%2FReserved>;
- iii) Massachusetts State Registration Certificate for Premier Executive Transportation Services Registration Certificate 521857292, *available at* <http://corp.sec.state.ma.us/corp/corptest/CorpSearchSummary.asp?ReadFromDB=True&UpdateAllowed=&FEIN=521857292>;

- iv) *The Broken Promise, Part I, Kalla Fakta* (television broadcast on Sweden's TV 4), (May 17, 2004) English transcript *available at* <http://www.hrw.org/english/docs/2004/05/17/sweden8620.htm> (discussing role played by aircraft with FAA registration number N379P and owned by defendant Premier Executive Transportation in rendition of two Egyptian asylum seekers from Sweden to Egypt in December, 2001);
- v) Scott Shane, Stephen Grey, and Margot Williams, *CIA Expanding Terror Battle Under Guise of Charter Flights*, NEW YORK TIMES, (May 31, 2005), at A1, *available at* <http://www.nytimes.com/2005/05/31/national/31planes.html?ei=5088&en=6007accb4801296c&ex=1275192000&adxnnl=1&partner=rssnyt&emc=rss&adxnnlx=1144156272-pU9RpnnBz4dTPcBFDgvzIw> (discussing defendant Aero Contractors Limited's role in rendition program, and specifically Mr. El-Masri's rendition);
- vi) A.C. Thompson and Trevor Paglen, *The CIA's Torture Taxi*, SAN FRANCISCO BAY GUARDIAN, (December 14-20, 2005), Vol. 40, No. 11, *available at* http://www.sfbg.com/40/11/cover_plane.html (describing institutional structure of defendant Keeler and Tate Management, including its ownership of aircraft registered N4476S, based upon examination of publicly available company registration documents and annual returns);
- vii) Dana Priest, *Jet Is an Open Secret in Terror War*, WASHINGTON POST, (Dec. 27, 2004), at A1, *available at* <http://www.washingtonpost.com/ac2/wp->

dyn/A27826-2004Dec26?language=printer (discussing generally use of CIA “front companies” in rendition program);

viii) *Op. Cit.* Exh. Q, Amnesty International, *Below the Radar: Secret Flights to Torture and Disappearance*, (April 5, 2006) (describing rendition program and its support network of aircraft and airports and documenting over 1,000 flights linked to renditions based on several sources including, *inter alia*, FAA flight records; European flight records; actual flight logs; aircraft movements recorded by airport authorities and airport records acquired in police and parliamentary investigations).

* * * *

I hereby declare under penalty of perjury that the foregoing is true and correct.

Executed this 7th day of April 2006.


Steven Macpherson Watt