

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

AMERICAN CIVIL LIBERTIES UNION,  
CENTER FOR CONSTITUTIONAL RIGHTS,  
PHYSICIANS FOR HUMAN RIGHTS,  
VETERANS FOR COMMON SENSE, and  
VETERANS FOR PEACE,

Plaintiffs,

v.

04 Civ. 4151 (AKH)

DEPARTMENT OF DEFENSE, AND ITS  
COMPONENTS DEPARTMENT OF ARMY,  
DEPARTMENT OF NAVY, DEPARTMENT OF  
AIR FORCE, DEFENSE INTELLIGENCE  
AGENCY; DEPARTMENT OF HOMELAND  
SECURITY; DEPARTMENT OF JUSTICE,  
AND ITS COMPONENTS CIVIL RIGHTS  
DIVISION, CRIMINAL DIVISION,  
OFFICE OF INFORMATION AND PRIVACY,  
OFFICE OF INTELLIGENCE POLICY AND  
REVIEW, FEDERAL BUREAU OF  
INVESTIGATION; DEPARTMENT OF STATE;  
and CENTRAL INTELLIGENCE AGENCY,

Defendants.

**DECLARATION OF CONSTANCE E. REA  
DEPUTY ASSISTANT INSPECTOR GENERAL FOR INVESTIGATIONS  
OFFICE OF INSPECTOR GENERAL  
CENTRAL INTELLIGENCE AGENCY**

I, CONSTANCE E. REA, hereby declare and state:

1. I am the Deputy Assistant Inspector General for Investigations of the Office of Inspector General (OIG) of the Central Intelligence Agency (CIA). As Deputy Assistant Inspector General for Investigations, I supervise the

Investigations Staff. I have served as Deputy Assistant Inspector General for Investigations since March 2004.

2. The CIA Inspector General (IG) is appointed by the President, by and with the advice and consent of the Senate, in accordance with Section 17 of the Central Intelligence Agency Act of 1949, as amended, 50 U.S.C. § 403q. The IG reports directly to and is under the general supervision of the Director of the CIA. The IG serves as head of OIG, whose mission is to initiate and conduct independently audits, inspections, and investigations relating to CIA programs and operations; promote economy, efficiency, and effectiveness in the administration of such programs and operations; and detect fraud and abuse in such programs and operations.

3. Through the exercise of my official duties, I am familiar with this civil action. I make the following statements based upon my personal knowledge and information made available to me in my official capacity.

4. This declaration accompanies the CIA's Memorandum of Law in Opposition to Plaintiffs' Motion for Contempt and Sanctions. Although OIG reviewed the videotapes that were destroyed in 2005 in connection with a special review of the CIA terrorist detention and interrogation program, OIG did not initiate an investigation of the activities depicted on the videotapes as a result of the special review. Moreover, OIG

never had the videotapes or copies of the videotapes in their files.

#### Overview of OIG Activities

5. OIG initiates and conducts independently audits, inspections, and investigations relating to CIA programs and operations. The Audit Staff is responsible for conducting performance and financial audits of CIA programs and operations in accordance with generally accepted government auditing standards. The Inspection Staff is responsible for inspecting CIA programs and operations to evaluate their efficiency and effectiveness. The Investigations Staff receives and investigates complaints or information from any person concerning the existence of any CIA-related activity constituting a violation of law, rules, or regulations; mismanagement, gross waste of funds, or abuse of authority; or a substantial and specific danger to the public health and safety.

6. In addition to audits, inspections, and investigations, OIG initiates and conducts special reviews. A special review is distinguished from an audit, inspection, or investigation because a special review typically: a) is not conducted on a regular schedule, such as some audits or inspections; b) is not initiated in response to a specific allegation of CIA impropriety, such as an investigation; and c) requires a

significant investment of personnel resources, in terms of either the number of personnel or the mix of professional skills required (such as auditors, inspectors, or investigators). A special review, like an audit or inspection, may give rise to a separate investigation if the review uncovers evidence of a violation of law, rules, or regulations; mismanagement, gross waste of funds, or abuse of authority; or a substantial and specific danger to the public health and safety.

7. In addition, the procedures for conducting special reviews differ from those for investigations. For instance, the procedures for handling special review reports differ from those for investigative reports. Those procedures are described in Appendix A to CIA's internal regulation describing the duties and responsibilities of OIG. This appendix describes rules for handling "special assessment reports," which are what OIG refers to as special reviews. The relevant version of that Appendix is attached to this declaration as Exhibit 1.

8. Depending on the nature of the audit, inspection, investigation, or special review, OIG often sends a notice to those CIA components that OIG deems likely to have relevant information. Such notices describe the subject of the review and the categories of information sought and provide instructions to make potentially relevant records available to OIG to review. The instructions regarding records vary from

case to case, depending on the nature and scope of the review. Depending on the volume and sensitivity of the records and the nature of the OIG inquiry, OIG may instruct the components to produce all records to OIG, produce certain categories of records to OIG, maintain certain categories of records on-site for OIG inspection, maintain all records on-site for OIG inspection, await further instructions, or some combination of the above. In addition, OIG may independently collect records without the assistance of other CIA components.

9. After OIG reviews records, whether on-site or in OIG offices, it determines what records are relevant to its review and what copies of records to retain in OIG offices. OIG does not use "markers" in its case files to designate records maintained in operational files. When OIG chooses to retain a record, it retains that record, or in most cases a copy of the record, in OIG files. If OIG has a reasonable basis to believe a federal crime may have been committed, the IG reports the information to the Attorney General. 28 U.S.C. § 535; 50 U.S.C. § 403q(b) (5).

10. Although OIG is authorized direct access to all CIA records relating to an OIG review, 50 U.S.C. § 403q(e) (2), OIG takes due regard for the protection of intelligence sources and methods when conducting its reviews and preparing its reports. 50 U.S.C. § 403q(c) (3). As a consequence, OIG frequently works

with the National Clandestine Service (NCS) to address operational and security concerns raised by sensitive intelligence activities.

OIG Special Review of the CIA Terrorist  
Detention and Interrogation Program

11. In January 2003, OIG initiated a special review of the CIA terrorist detention and interrogation program. This review was intended to evaluate CIA detention and interrogation activities, and was not initiated in response to an allegation of wrongdoing. The special review was led by the Deputy Inspector General and the team comprised personnel from across OIG, including the Assistant Inspector General for Investigations, the Counsel to the Inspector General, a senior Investigations Staff manager, three Investigators, two Inspectors, an Auditor, a Research Assistant, and a Secretary.

12. When OIG reviewed the CIA terrorist detention and interrogation program, the President had not yet publicly acknowledged the existence of the program, and the fact, nature, and details of the program were tightly compartmented even within the NCS. During the course of the special review, OIG was notified of the existence of videotapes of the interrogations of detainees. OIG arranged with the NCS to review the videotapes at the overseas location where they were stored.

13. OIG reviewed the videotapes at an overseas covert NCS facility in May 2003. After reviewing the videotapes, OIG did not take custody of the videotapes and they remained in the custody of NCS. Nor did OIG make or retain a copy of the videotapes for its files. At the conclusion of the special review in May 2004, OIG notified DOJ and other relevant oversight authorities of the review's findings. At no time prior to the destruction of the tapes in 2005 did OIG initiate a separate investigation into the interrogations depicted on the videotapes.

14. Because OIG did not take custody or make copies of the videotapes, they were not among the materials that OIG provided to the CIA components responsible for processing Plaintiff's Freedom of Information Act (FOIA) request--the Information Management Staff (IMS), the Office of General Counsel (OGC), and the NCS Information Review Officer.

#### OIG Investigation of Allegations of Impropriety In Iraq

15. As stated in the 9 November 2004 Declaration of Mona B. Alderson, by May 2004, OIG had commenced an investigation of allegations of impropriety in Iraq. As with all such broad investigations, the scope of the Iraq investigation changed over time as OIG gathered information. At times, the scope of the investigation expanded as new information pointed to additional

programs, operations, or persons as subjects of inquiry. Other times, the scope of the investigation contracted as new information disproved allegations or eliminated subjects of inquiry. The initial investigation also gave rise to other related investigations.

16. The OIG investigation into allegations of impropriety in Iraq and the other related investigations did not investigate the same activities encompassed by the OIG special review of the CIA terrorist detention and interrogation program. Stated another way, the activities depicted on the videotapes that were reviewed in 2003 were not the specific subject matter of the OIG investigation of allegations of impropriety in Iraq, or any other investigation conducted by OIG.

#### Investigation of Destruction of Videotapes

17. On 8 December 2007, DOJ and CIA announced that DOJ's National Security Division initiated a preliminary inquiry in conjunction with CIA's OIG regarding the destruction of interrogation videotapes described in the CIA Director's message to employees on 6 December 2007. On 2 January 2008, the Attorney General announced that the preliminary inquiry into the destruction by CIA personnel of videotapes of detainee interrogations had been completed and that there was a basis for initiating a criminal investigation. The Attorney General



further announced the appointment of a prosecutor to lead the Department of Justice's criminal investigation. Also on 2 January 2008, the IG recused himself from participation in the criminal investigation.

\* \* \* \*

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

Executed this 10 day of January, 2008.

Constance E. Rea

Constance E. Rea  
Deputy Assistant Inspector General  
for Investigations  
Office of Inspector General  
Central Intelligence Agency

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Date: 02/24/2003

Category: Organization OPR:

Title: APPENDIX, A - AUDIT, INSPECTION AND  
SPECIAL ASSESSMENT REPORT HANDLING PROCEDURES

## APPENDIX A

AUDIT, INSPECTION AND SPECIAL ASSESSMENT  
REPORT HANDLING PROCEDURES

- (a) **SCOPE.** OIG audit, inspection, and special assessment reports will be processed as provided in procedures promulgated by the IG. OIG investigative reports will be handled as appropriate for each case, but appropriate Agency components will be provided an opportunity to comment on any major systemic recommendations and the factual findings that are included in investigative reports.
- (b) **DRAFT REPORT REVIEW AND COMMENT.** Upon completion of an OIG audit, inspection, or special assessment, OIG will transmit a draft report to components that would be responsible for implementing recommendations, and request their written comments within a period of up to 30 days, with extensions as OIG deems appropriate. Copies of draft reports will also be sent to the EXDIR, the Chief Financial Officer (CFO) and cognizant Deputy Directors, Heads of Mission Support Offices (MSO), and to the as the IG deems appropriate, for information and comment. OIG will consider all comments and make revisions to the report that OIG considers valid.
- (c) **TRANSMITTAL OF FINAL REPORT.** OIG will transmit the final report to cognizant Agency managers, the EXDIR, CFO and appropriate Deputy Director or MSO.
- (d) **TEN AND SIXTY DAY RESPONSES TO FINAL REPORT RECOMMENDATIONS.** Cognizant Agency managers will advise the IG in writing within ten working days, through the appropriate Deputy Director or MSO and with a copy to the EXDIR, whether they concur in whole or in part with

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the recommendations in the final report. If the managers concur with the recommendations, they must forward to the IG within 60 days, through the appropriate Deputy Director or MSO and with a copy to the EXDIR, a report explaining actions taken to implement the recommendations and providing a timetable for recommendations that will require longer than 60 days to implement. If feasible, this description of actions taken or planned to respond to the recommendations can be included in the initial response that is done within ten days.

- (e) **DECISIONS.** The IG reserves the right to seek concurrence for any recommendations with which a cognizant manager does not concur. In the event the IG elects to exercise this option, the cognizant Agency manager, the responsible Deputy Director or MSO and the EXDIR will be advised by the IG in writing 10 working days prior to elevating the issue to the .
- (f) **NOTIFICATION.** The IG will ensure that the is apprised of all noteworthy findings and recommendations in OIG reports.
- (g) **MONITORING OF RECOMMENDATIONS.** The OIG and the EXDIR shall monitor the implementation of approved OIG recommendations until the OIG and the EXDIR agree that appropriate corrective action has been taken. Agency managers will be responsible for keeping OIG informed of actions taken in response to OIG recommendations. If the IG and the EXDIR cannot agree that substantial implementation has been achieved, the IG shall so notify the EXDIR and the , and note such disagreement in the next semiannual report to the .
- (h) **REPORTING UNSATISFIED RECOMMENDATIONS.** Significant recommendations from OIG reports that remain unsatisfied will be reported by the IG in the semiannual report to the , as required by law, and forwarded by the to Congress. If a recommendation remains unsatisfied for a lengthy period, the IG may conclude that the Agency does not intend to implement it. In such a case, the IG will include a statement in the semiannual report setting forth the reasons the recommendation remains unsatisfied as well as the IG's view of the impact of the failure to implement the recommendation. Thereafter, the OIG will cease to track its implementation.

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