



February 4, 2009

The Honorable Hillary Clinton
U.S. Department of State
2201 C Street, N.W.
Washington, D.C. 20520

**Re: Clarification Requested on Position of the United States
on Blocking Disclosure by a British Court of Its Report on
Allegations of Torture**

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ANTHONY D. ROMERO
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RICHARD ZACKS
TREASURER

Dear Secretary Clinton:

The American Civil Liberties Union strongly urges you to clarify the position of the United States on the publication of the full judgment in a lawsuit brought by a Guantanamo detainee, Binyam Mohamed, in a British court. Earlier today, the High Court in Great Britain published a judgment denying publication of its report detailing allegations of torture. The High Court stated that the United States had threatened that full publication of the court's judgment would jeopardize intelligence cooperation between the two countries. Remarkably, the court reported that the British government claimed the U.S. position had not changed, despite the inauguration of President Barack Obama. We urgently request that you clarify the position of the United States in this matter.

Two of the British justices severely criticized the position of the United States in working to block publication of the judgment in the torture case. Lord Justice Thomas and Justice Lloyd Jones stated today that:

Indeed, we did not consider that a democracy [the United States] governed by the rule of law would expect a court in another democracy to suppress a summary of the evidence contained in reports by its own officials ... relevant to allegations of torture and cruel, inhumane, or degrading treatment, politically embarrassing though it might be.

We had no reason ... to anticipate there would be made a threat of the gravity of the kind made by the United States Government that it would reconsider its intelligence-sharing relationship, when all the considerations in relation to open justice pointed to us providing a limited but important summary of the reports.

The court's opinion specifically stated that attorneys for British Foreign Secretary David Miliband told the court that the United States' threat on the effect of publication on intelligence cooperation was continued by the United States, despite the inauguration of President Obama. Specifically, the justices stated that, "it was submitted to us by Mr. David Rose that the situation had changed significantly following the election of President Obama who was avowedly determined to eschew torture and cruel, inhuman and degrading treatment and to close Guantanamo Bay. We have, however, been informed by counsel for the Foreign Secretary that the position has not changed."

The claims made by the British justices that the United States continues to oppose publication of the judgment in the Binyam Mohamed case--to the point of threatening the future of U.S.-British intelligence cooperation--seems completely at odds with both the anti-torture and transparency executive orders signed by the President. We strongly urge you to clarify the position of the United States and remove any threat related to the publication of the court's full judgment.

Please let us know if you have any questions regarding this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "A. Romero".

Anthony D. Romero
Executive Director

A handwritten signature in black ink, appearing to read "Caroline Fredrickson".

Caroline Fredrickson
Director, Washington Legislative Office

cc: Joan Donoghue, Acting Legal Adviser