



Ashton B. Carter
Secretary of Defense
Department of Defense
1000 Defense Pentagon
Washington, DC 20301-1000

The Honorable Loretta Lynch
Attorney General
Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

via US mail and fax

September 18, 2015

Re: Information on Abu Zubaydah Case

Dear Secretary Carter and Attorney General Lynch,

We the undersigned organizations write to express concern and urge you to reconsider a recent decision by a Guantanamo Bay Privilege Review Team (PRT) to bar the disclosure of information related to the CIA's Rendition, Detention, and Interrogation (RDI) program. On September 10, 2015, the media reported that lawyers for current Guantanamo detainee Abu Zubaydah were refused permission from the PRT to disclose information from their client about treatment while in CIA custody.¹ The information they presented for release appears to fit a category which, according to government documents, is no longer classified.

Earlier this year, following release of the Senate Intelligence Committee's summary of the CIA's former detention and interrogation activities (Senate Summary), the government made clear in certain military

¹ David Rohde, "U.S. government blocks release of new CIA torture details," Reuters, September 10, 2015, <http://www.reuters.com/article/2015/09/11/us-usa-cia-torture-idUSKCNORA2RM20150911>.

commission cases and in its own classification guidance pertaining to the RDI program, that the “conditions of confinement” and the “treatment” of detainees while in CIA custody, among other things, were no longer classified.² In line with this decision, in May the administration permitted the disclosure of lawyers’ notes containing the account of Majid Khan, also a current Guantanamo Bay detainee formerly held by the CIA, about some of his treatment while in CIA custody.³ The declassification of CIA treatment and conditions of confinement shed further light on facts of public importance that the government had kept secret for far too long.

Reports that the administration is now refusing to permit the release of Abu Zubaydah’s account of his treatment is a setback for a trend towards greater openness. As reported by Reuters, Abu Zubaydah’s team of lawyers submitted 116 pages of notes in 10 submission parts to the PRT for review and all of it was denied. The team’s lead lawyer, Joseph Margulies, also said that what his team submitted for clearance was limited to Abu Zubaydah’s description of his torture and did not include prohibited information.⁴ Since the government has taken the position that treatment of detainees and their conditions of confinement while in CIA custody is no longer classified, it is hard to understand the rationale for refusing to permit the notes from being made public.

The full release of information about the treatment of detainees in CIA custody is long overdue. The government’s original decision to classify former CIA detainees’ own thoughts, memories, observations, and experiences about their time in CIA custody violated the administration’s own classification rules, which only permit the classification of information produced by or in the control of the government. Those rules also bar classifying information to conceal violations of the law or prevent embarrassment.⁵

Release of the Senate Summary was a watershed in many ways and it is important that the information contained in that document was disclosed to the public. But as telling as the Senate Summary was about the treatment detainees suffered in CIA custody, it is mainly an account told from the government’s perspective. Still largely missing from the public record are the accounts of many detainees, including those who, according to the Senate Summary, were subjected to some of the harshest CIA abuses. More information must be made public, including the full 6,700-page Senate report with appropriate redactions for legitimately classified information; the pseudonyms, names and titles of non-covert CIA personnel, and CIA personnel who have acknowledged their CIA affiliation and are implicated in the RDI program; and more information about the rendition aspect of the CIA’s RDI program, including the names of those the CIA unlawfully rendered to other countries.⁶

² See e.g. “Government Motion to Amend AE013DDD Second Amended Protective Order #1 To Protect Against Disclosure of National Security Information,” January 30, 2015, [http://www.mc.mil/Portals/0/pdfs/KSM2/KSM%20II%20\(AE013RRR\(Gov\)\).pdf](http://www.mc.mil/Portals/0/pdfs/KSM2/KSM%20II%20(AE013RRR(Gov)).pdf); pp. 4-6; see also “CIA, Classification Guidance for Information About the Central Intelligence Agency’s Former Rendition, Detention and Interrogation Program,” available at [OpenTheGovernment.org](http://www.openthegovernment.org), dated January 28, 2015, <http://www.openthegovernment.org/sites/default/files/RDIclassificationguidance.pdf>, pp. 4-5.

³ David Rohde, “Exclusive: Detainee alleges CIA sexual abuse, torture beyond Senate findings,” Reuters, June 2, 2015, <http://www.reuters.com/article/2015/06/02/us-usa-torture-khan-idUSKBN00I1TW20150602>.

⁴ Rohde, “U.S. government blocks release of new CIA torture details,” Reuters.

⁵ See Executive Order 13526 Sections 1.1(a)(2) and 1.7(a)(1) and (2), December 29, 2009, <https://www.whitehouse.gov/the-press-office/executive-order-classified-national-security-information>.

⁶ Letter to John P. Fitzpatrick, Director Information Security Oversight Office, from [OpenTheGovernment.org](http://www.openthegovernment.org), regarding the “Wrongful classification of information regarding CIA torture, in violation of Executive Order 13526,” September 15, 2015, http://www.openthegovernment.org/sites/default/files/ISOO_Complaint_CIA_torture.pdf

We understand that lawyers for several other detainees have requested that notes about their clients' treatment in CIA custody be released as well and are awaiting decisions about their requests at this time. We urge you to reconsider the decision regarding Abu Zubaydah's account and quickly process the remaining requests. Failure to do so only delays a significant step toward needed transparency and prevents the public and policymakers from knowing the full truth about important aspects of the CIA program.

We thank you for your attention to this matter,

American Civil Liberties Union
Amnesty International USA
The Center for Victims of Torture
The Constitution Project
Human Rights First
Human Rights Watch
National Religious Campaign Against Torture
OpenTheGovernment.org
Physicians for Human Rights

cc: James Clapper, Director of National Intelligence
John Brennan, Director, US Central Intelligence Agency
Lisa Monaco, Assistant to the President for Homeland Security and Counterterrorism
Susan Rice, National Security Advisor