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# **“HUMAN CARGO”: BINYAM MOHAMED AND THE RENDITION FREQUENT FLIER PROGRAMME**



## **From Goldhawk Road to Guantánamo Bay - Binyam Mohamed’s Torture Odyssey –**

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## INTRODUCTION

Binyam Mohamed was born on 24 July, 1978, in Ethiopia,<sup>1</sup> and came to the UK on 9 March 1994, seeking political asylum. Binyam travelled to Pakistan and then Afghanistan in June 2001 primarily because he wanted to escape a social circle in London that had led him into drug addiction.

With Afghanistan in chaos after 9/11, Binyam left for Pakistan. The situation there, however, proved equally unstable; neither place showed any sign of improving. So in April 2002 Binyam decided to return home to the UK. He was apprehended at Karachi airport for a passport violation. After three months of detention and abuse in Pakistan, Binyam was handed over to the US military, who rendered him to Morocco.

In Morocco, Binyam endured eighteen months of shocking torture, including being repeatedly sliced across his body and genitals with a razor blade. In January 2004 Binyam was shipped to further torture in the “Dark Prison” in Afghanistan, before being brought to Guantánamo Bay in September 2004. He has been in Guantánamo ever since.

Binyam now faces charges in the discredited military commissions of Guantánamo Bay. The charges against Binyam – which he vigorously denies – are based entirely on torture evidence.

*Human Cargo* is an account of the horrific torture and abuse that Binyam Mohamed underwent in various “black sites” around the world before he arrived at Guantánamo Bay. Further, this report exposes the “anatomy” of a typical US rendition operation, based on *Reprive’s* detailed investigation into Binyam’s rendition flight from Morocco to Afghanistan in January 2004. It reveals that in the space of just eight days, at least seven individuals – Binyam Mohamed, German citizen Khaled El-Masri, and five others – were rendered by the same rendition crew.

***Reprive* is calling for a full and open US investigation into the crimes that have been committed against Binyam Mohamed. Better by far that such an investigation be conducted by the US congressional authorities, rather than wait for the inevitable disclosures and arrest warrants that are already percolating abroad.**

**US officials should immediately:**

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<sup>1</sup> Binyam Mohamed is sometimes referred to as “al Habashi” below, reflecting the contents of various records. This is merely the Arabic for his Ethiopian origins.

- *convene a Congressional investigation into Binyam Mohamed's credible allegations of torture, allegations that (according to the British government) have never been investigated by the US;*
- *turn over all evidence of Binyam's torture in Morocco, Afghanistan, and Guantánamo to his lawyers, including photographs of his injuries, interrogation logs, and any other relevant material, as set out in detail in each section of this report.*

### **UK officials should immediately**

- *provide to Binyam's lawyers all information in their files about their involvement in the rendition and torture of Binyam Mohamed;*
- *convene a full and public enquiry into the participation of British collusion in this process, releasing documentary evidence known to be in their possession of Binyam's abuse to Binyam's attorneys, the relevant judicial authorities, and the public.*

### *"Torture-gate" and the inevitable exposure of criminal acts*

As the Bush Administration comes to an end, it is crucial that its American successors, recognize that the term "rendition" is actually a synonym for "kidnapping". So must the US's close allies in Europe, who have for years propped up who have allowed themselves to be pulled along in the wake of this pattern of illegal activity.

The law in Europe is already catching up to these crimes. Thirteen individuals responsible for Binyam Mohamed's second rendition have been indicted and Interpol arrest warrants issued by the Munich Prosecutor's Office for their role in the rendition of Khaled El-Masri. Investigations are proceeding in Germany against other US personnel involved in these crimes.

In the UK, an extensive court inquiry is currently considering the British government's duty to disclose all the evidence in its possession that supports Binyam Mohamed's claim that he has been tortured. The Court has ordered a hearing, and it is clear that the UK has such evidence. The UK Intelligence and Security Committee already found it likely, based on the classified testimony of a British intelligence director, that the UK supplied information used during Binyam's US-sponsored torture in Morocco.

Simultaneously, a criminal inquiry in Portugal is investigating Portuguese complicity with rendition – including the flights that carried Binyam Mohamed to his torture chambers.

In the meantime, unfortunately, the Bush Administration is busily trying to cover up its role in orchestrating these crimes. Binyam Mohamed's case is just the most abject story of "Torture-gate": the effort to suppress evidence that US officials ordered and organized torture around the world. The ripples of this misconduct have spread far and wide, causing untold damage to the reputation of the United States and providing its would-be attackers with a ready-made recruiting tool.

Some of this damage has been very personal. Rendition and torture – like the

enforced disappearance carried out by Latin American dictators in the 1980s – devastates both its victims and the families it leaves in the dark for years, wondering whether their loved one is dead or alive. When Binyam Mohamed first went missing – years before it came out that he had been sold to the US by the Pakistanis for a bounty – his older brother and sister searched desperately to find him. Both are US citizens, and in their fear they sought help from the FBI.

Sadly, no such help was forthcoming. In mid-2002, when Binyam was still in Pakistan and before he was rendered by the CIA to Morocco, his brother and sister spoke separately to James R. Sobchack, an FBI Special Agent with the Washington Metropolitan Field office. Agent Sobchack lied to them, telling them that “the US wouldn’t have him [Binyam] since they ‘didn’t need him’ and that he might be in the custody of the Pakistanis”. Based on this misinformation, his brother travelled all the way to Britain to try to find him; his sister conducted a search through the Pakistani authorities. Meanwhile, Binyam was about to be rendered by the CIA, to suffer unspeakable torture in Morocco.

Some of the damage has been done to the US reputation for even-handed justice. José Padilla was held for over three years without trial (and, for the most part, without a lawyer), based on allegations concerning the so-called “Dirty Bomb” plot, where a radioactive timebomb was meant to be detonated in New York City. The Administration quietly swept these allegations under the rug in November 2005, the moment it became clear that Padilla would have to be prosecuted in federal court. The allegations were dropped to avoid a public airing of the supposed “evidence” of the plot – evidence that Binyam Mohamed had been razor-bladed in Morocco.

It is revealing that in the same month the “Dirty Bomb” charges were dismissed against Padilla, they were levelled against Binyam Mohamed – in Guantánamo Bay. In other words, the Administration thought that by rigging the rules in a military commission, it could keep all embarrassing evidence out of the public eye.

Yet ultimately the crimes committed against Binyam Mohamed cannot be “censored” because some authority somewhere – be it the British courts, the German prosecutors or the Portuguese inquiry – will not allow it.

Better that the open investigation take place in the US. Fortunately, while the Bush Administration shows no inclination to allow the truth out, members of Congress are not required to follow suit. As the New York Times reported on June 6, 2008:

Mr. Delahunt’s office said in an e-mail message on Thursday that the congressman would be making an official request for the photographs [of Mr. Mohamed’s abuse]. Mr. Mohamed’s case has been the source of tension between the United States and Britain. .... The British government has ... unsuccessfully sought an investigation by the United States into Mr. Mohamed’s accusations that he had been tortured. In February, American officials told the British Embassy in Washington that “they were not looking into the allegations of mistreatment,” the British Foreign Office noted in an internal report recently released to Mr. Mohamed’s lawyers, who provided a copy to The New York Times.

Bonner, *British Judge Sets Hearing on Evidence for Detainee* (New York Times, June 6, 2008).

This report provides a roadmap for the investigation that should be carried out – identifying what is already known, and what evidence should be compelled by subpoena.

## BINYAM MOHAMED'S ABUSE IN PAKISTAN

We begin where Binyam's abuse began: when he was seized by the Pakistani authorities at Karachi airport on 10 April 2002. He was held in Landi Prison from April 13-20, and the ICI Unit, an interrogation centre in Karachi, from April 20-27.

At the ICI Unit there were 4 small cells, each 2m x 2.5m. Binyam was hung up for a week by a leather strap around the wrists so he could only just stand. This was the torture technique known to the Spanish Inquisition as *strappado*. Binyam was only allowed down to go to the toilet twice a day. He was given food, normally rice and beans, once every second day.

The Pakistanis could not speak English, and Binyam could not understand them. They would just come in and beat him with a leather strap. It had a handle, and the leather was jointed, so that the rounded end would whip back on him. One Pakistani pointed a gun at Binyam's chest. It was a semi-automatic, and he loaded it in front of Binyam:

"He pressed it against my chest," Binyam reports. "He just stood there. I knew I was going to die. He stood like that for five minutes. I looked into his eyes, and I saw my own fear reflected there. I had time to think about it. Maybe he will pull the trigger and I will *not* die, but be paralyzed. There was enough time to think the possibilities through."<sup>2</sup>

At the ICI Unit the FBI came to interrogate Binyam. He refused to speak with them, saying that the Americans had nothing to do with him, and asked for an attorney. The FBI would come in for morning interrogations. There were four of them: "Chuck", "Terry", "FNU" (a black male), and "Jenny".<sup>3</sup> On the first day of the interrogations, Binyam was threatened with extraordinary rendition:

'Chuck' said, "If you don't talk to me, you're going to Jordan. We can't do what we want here, the Pakistanis can't do exactly what we want them to. The Arabs will deal with you." 'Terry' asked the same questions. "I'm going to send you to Jordan or Israel," he said. It was after Terry's visit that they started the torture.<sup>4</sup>

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<sup>2</sup> Reprieve file, *Binyam Mohamed Unclassified*, at p3.

<sup>3</sup> See Reprieve File, *Binyam Mohamed Unclassified*, at 2 ('1. 'Chuck'. White male, about 40, 5'9" or 5'10", brown hair, blue eyes, 70kg. "If I see him I'll know him." 2. 'Terry'. White male, about 50, 5'11 or 6', brown hair, blue eyes, clean shaven but with a mustache, 90kg. "If I see him I'll know him." 3. FNU. Black male (light skinned), 35, 5'10, bald, spoke Swahili. "If I see him I'll know him." 4. 'Jenny'. White female, 40-ish, 5'9", skinny, brown shoulder-length hair. "If I see her I'll know her.").

<sup>4</sup> Reprieve file, *Binyam Mohamed Unclassified*, at p3.

'Chuck' came in shortly after the incident when the Pakistani loaded a gun in front of Binyam. He said nothing, just stared at Binyam and left.

Two British MI5 officers came after that:<sup>5</sup>

They gave me a cup of tea with a lot of sugar in it. I initially only took one. 'No, you need a lot more. Where you're going, you need a lot of sugar.' I didn't know exactly what he meant by this, but I figured he meant some poor country in Arabia." One of them did tell me I was going to get tortured by the Arabs.<sup>6</sup>

**Both the US and UK governments have a duty to open a full inquiry to the abuses Binyam suffered in Pakistan, and to report their findings to the public, Binyam's lawyers, and the relevant judicial authorities.**

*Investigatory follow up required in Pakistan (from the US):*

- *Identities of the American agents<sup>7</sup> who interviewed Binyam Mohamed in Pakistan*
- *FBI 302s / CIA reports of interviews of Binyam Mohamed in Pakistan*
- *Copies of agreements between US and Pakistani authorities allowing US interrogation of prisoners in Pakistani custody*
- *Questions and instructions submitted by US officials to Pakistani authorities concerning the treatment of Binyam Mohamed (or the general treatment of prisoners)*
- *Copies of any agreement between US and Pakistani authorities requiring that prisoners being questioned by the US not be tortured or otherwise mistreated while in Pakistani custody.*
- *Photographs of Binyam Mohamed taken by the US while in Pakistani custody*
- *Sum paid as a "bounty" for the transfer of Binyam Mohamed from Pakistani to US custody*
- *Copies of the relevant payment and transfer documents*

*Investigatory follow up required in Pakistan (from the UK):*

- *All correspondence of any kind, including written documents, e-mails, or notes of oral conversations, with the US about Binyam Mohamed between September 11, 2001 and the present day*

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<sup>5</sup> See Reprieve File, *Binyam Mohamed Unclassified*, at p1. ('John'. He was a white male, 30, short black (?) hair, a goatee, 5'10" and stocky. ("I might recognize him.") 2. FNU. White male, 45, 5'10", stocky, full short black (?) beard. ("I would recognize him.")).

<sup>6</sup>Reprieve file, *Binyam Mohamed Unclassified*, at p4. On 13 December 2005 the former UK Foreign Minister Jack Straw admitted in questioning before the Foreign Affairs Select Committee that MI5 officers had visited Binyam whilst he was in Pakistani custody. Further corroboration of Binyam's claim comes from the UK Security Services in evidence given to the UK Intelligence and Security Committee, who said: "A member of the Security Service did interview Al Habashi once, for a period of approximately three hours, whilst he was detained in Karachi in 2002. The interview was conducted by an experienced officer and was in line with the Service's guidance to staff on contact with detainees." (UK Intelligence and Security Committee Rendition Report, July 2007, at p33)

<sup>7</sup> Note that these may not be FBI agents, since there has been a pattern of US personnel misrepresenting their true status, often sullyng the reputation of the FBI.

- Copies of all interrogation documents, photographs, or other memoranda of any kind concerning Binyam Mohamed made by UK officers related to his time in Pakistan<sup>8</sup>
- Copies of all documents of any kind, and reductions to writing of any oral conversation, between the UK officers and any Pakistani or US officer about Binyam Mohamed

## **BINYAM MOHAMED'S FIRST U.S. RENDITION: PAKISTAN TO THE TORTURE CHAMBER IN MOROCCO**

On or around 21 July 2002 Binyam reports being taken to a military airport in Islamabad, with two others also apparently slated for rendition. After around two hours of waiting, Binyam was turned over to American personnel.<sup>9</sup> Binyam describes a routine consistently recounted by numerous victims, and recorded by NGOs, government inquiries and other witnesses<sup>10</sup> around the world, that has come to be known as the *modus operandi* of US renditions. Binyam recalls that his kidnappers were dressed in black, with masks, wearing what looked like Timberland boots.<sup>11</sup> They stripped him naked,<sup>12</sup> took photos,<sup>13</sup> put fingers up his anus and

<sup>8</sup> Revelation of such documents is clearly mandated by the legal theory of the recent Canadian Supreme Court decision in *Canada (Justice) v. Khadr*, 2008 SCC 28 (May 23, 2008), see <http://scc.lexum.umontreal.ca/en/2008/2008scc28/2008scc28.html>.

<sup>9</sup> The UK Security Services have admitted in evidence to the UK Intelligence and Security Committee that they knew of the plan to transfer Binyam Mohamed out of Pakistan:

“104. The Security Service had no further contact with al Habashi since this one interview in 2002. However, they were aware of the U.S. plan to transfer him, because:... *at the beginning it was thought [Al Habashi] was [a British national], we were told by [the U.S.] that they were going to move him to Afghanistan and we know that he was moved to Guantánamo. He has claimed that on the route there he was held in Morocco and that while in Morocco he was tortured... We do not know whether that happened...*  
105. \*\*\* [redacted]”

See “UK Intelligence and Security Committee Rendition Report,” July 2007, at p34. The UK Security Services stated to the Intelligence and Security Committee that no assurances were sought as to Binyam Mohamed’s treatment after he left Pakistan, and that this is regrettable. See “UK Intelligence and Security Committee Rendition Report,” July 2007 (“\*\*\*. That is a case where, with hindsight, we would regret not seeking proper full assurances at the time...”).

<sup>10</sup> See for example the account of Mohamed Bashmillah to his lawyers in “Surviving the Darkness: testimony from the U.S. “Black Sites”, New York University School of Law Centre for Human Rights and Global Justice, 2007 available at <http://www.chrgj.org/projects/docs/survivingthedarkness.pdf>. For the account of Khaled El-Masri see declaration of Khaled El-Masri in support of Plaintiff’s Opposition to the United States’ Motion to Dismiss, in *El-Masri v. Tenet et al*, Eastern District Court of Virginia in Alexandria, 6 April 2006, at pp 8-9. For the accounts of Bisher Al-Rawi and Jamil El-Banna, see Parliamentary Assembly of the Council of Europe, “Alleged Secret Detentions and Unlawful Interstate Transfers Involving Council of Europe Member States”, AS/Jur (2006) 16 Part II, at p39.

<sup>11</sup> See for example unclassified statement of Bisher Al-Rawi made to his lawyer in Guantánamo Bay describing “big people in balaclavas” referred to in the “witness statement of Clive Stafford Smith” submitted to the UK High Court of Justice in Case No. 2005/10470/05, at p31; unclassified statement of Jamil El-Banna made to his lawyer at Guantánamo Bay describing people “dressed in black like ninjas” referred to in the “witness statement of Clive Stafford Smith” submitted to the UK High Court of Justice in Case No. 2005/10470/05, at p 40; and see Office of the Parliamentary Ombudsman (Sweden), describing people wearing “ordinary clothes, but hooded”: “Interview Conducted with State Official X of the Security Police (Sapo), Case No. 2169-2004, 30 September 2004, at p10.



dressed him in a tracksuit.<sup>14</sup> Binyam was then shackled, with ear-mufflers, blindfolded, and put into a plane.<sup>15</sup> He was tied to the seat for the roughly 8-10 hour flight, and arrived on 22 July 2002, in a place he later learnt was Morocco.<sup>16</sup>



N379P

*According to official Eurocontrol flight data, at twenty-five minutes to six in the evening of 21 July 2002, Gulfstream V N379P left Islamabad, arriving in Rabat at eighteen minutes to four in the morning. Gulfstream V N379P is a plane that was then owned by a CIA front company called Premier Executive Transport, and is according to Amnesty International the plane “most frequently associated with known cases of rendition.”*

N379P has been dubbed “the torture taxi” by journalists and plane spotters around the world.<sup>17</sup> The distance from Islamabad to Rabat is 7,031 km (4,369 miles).

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See Center for Human Rights and Global Justice (“CHRGJ”), NYU School of Law Report “Surviving the Darkness: Testimony from the U.S. “Black Sites”. Mohamed Farag Ahmed Bashmilah described people “dressed head to toe in black, with black masks covering their faces” at p14/15.

<sup>12</sup> See Office of the Parliamentary Ombudsman (Sweden), describing the methodical cutting off of the victim’s clothes, “Interview Conducted with State Official X of the Security Police (Sapo), Case No. 2169-2004, 30 September 2004, at p13.

See also Amnesty Report “Human Cargo” in relation to Khaled Al-Maqtari at p42, the CHRGJ report at p14 (see above) and the Human rights Watch Report on Marwan Jabour, all of which describe detainees being stripped naked.

<sup>13</sup> See below at p9. Binyam was photographed again when he was rendered from Morocco to Kabul, and both Khaled El-Masri and Mohamed Al-Zeri were photographed during their renditions. Binyam Mohamed said that that as he was being taken onto a plane in Rabat, “there was a white female with glasses...One of them held my penis and she took digital pictures.” See Reprieve file AlHabashi Unclassified at p20. Khaled El-Masri said: “They took off my blindfold...As soon as it was removed, a very bright flashlight went off and I was temporarily blinded. I believed from the sounds that they had taken photographs of me from throughout.” See declaration of Khaled El-Masri in support of Plaintiff’s Opposition to the United States’ Motion to Dismiss, in *El-Masri v. Tenet et al*, Eastern District Court of Virginia in Alexandria, 6 April 2006, at p9; And see Office of the Parliamentary Ombudsman (Sweden), “Interview Conducted with State Official X of the Security Police (Sapo), Case No. 2169-2004, 30 September 2004, comment made at p13: “He wasn’t naked, he had his underpants on; the upper body was undressed and then his picture was taken.” See also Amnesty Report “Human Cargo” at p42 Al-Maqtari was stripped naked and had photos taken. See also Surviving the Darkness p15 Bashmilah describes being stripped and photographed. See also the Human Rights, Watch Report online report “The Case of Marwan Jabour” who describes being stripped naked and videoed, at <http://www.hrw.org/reports/2007/us0207/2.htm>

<sup>14</sup> “See Surviving the Darkness” report which describes Bashmilah having a finger inserted into his anus at p15.

<sup>15</sup> See declaration of Khaled El-Masri in support of Plaintiff’s Opposition to the United States’ Motion to Dismiss, in *El-Masri v. Tenet et al*, Eastern District Court of Virginia in Alexandria, 6 April 2006, at p9.

<sup>16</sup> Reprieve file, *Binyam Mohamed Unclassified*, p5.

<sup>17</sup> This Gulfstream executive jet has been successively registered as N379P, N8068V and N44982, and in February 2000, it was registered by the CIA front company Premier Executive Transport Services, at the beginning of 2004 it was re-registered as N44982, and in December 2004 it was re-registered again as N44982 by Bayard Foreign Marketing, described by Amnesty International as “a phantom company registered in Oregon state since August 2003. The plane was sold in early 2006. Until August 2005 Premier Executive Transport planes were licensed to land at US bases world-wide. N379P could be configured for eight to 18 passengers.

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N379P had an average range of 5,800 nautical miles, cruising at between 459 and 585 knots.<sup>18</sup> At 470 knots, then, the flight from Islamabad to Rabat would take just over 8 hours, which is consistent with Binyam's estimate that the flight took 8-10 hours.<sup>19</sup>

**The US and UK authorities have a duty to launch an enquiry into Binyam Mohamed's rendition flights, and to disclose that information to the public, Binyam's lawyers, and the relevant judicial authorities.**

*Investigatory follow up required regarding Binyam Mohamed's first Rendition flight includes the following (from the US):*

- *Identities of the American agents<sup>20</sup> who were involved in the rendition of Binyam Mohamed from Pakistan to Morocco*
- *Interviews under oath with each of these agents*
- *Any reports made concerning the rendition flight*
- *Copies of agreements between US and Pakistani authorities allowing US to render prisoners out of Pakistan*
- *Instructions submitted by US officials to those rendering Binyam Mohamed, and any contractual documents regarding payment for services 'rendered' (e.g., if this was done on a contractual basis)*
- *Photographs of Binyam Mohamed taken by the US during the rendition process, from the moment of assuming formal custody of him from the Pakistanis to the moment formal custody was relinquished to the Moroccans<sup>21</sup>*
- *Copies of the relevant payment and transfer documents*

*Investigatory follow up required regarding Binyam Mohamed's first rendition flight includes the following (from the UK):*

- *Any flight records related to any rendition process by a US aircraft between July 20 and July 23, 2002*

## **BINYAM MOHAMED'S 18 MONTHS OF TORTURE IN MOROCCO**

In unclassified statements to his lawyer, Binyam describes being taken to his first prison cell in Morocco:

At the airport, I was put in what I believe to be a Reynolds van. I was told to lie down. My cuffs were changed to plastic ones, and they drove for half an hour or 45 minutes. I heard Arabic being spoken at this time.

Where I was first held, from July 23<sup>rd</sup>, 2002, to about August 15<sup>th</sup>, there was a series of houses which were dug down, almost underground.

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<sup>18</sup> Amnesty International, *USA: A case to answer, from Abu Ghraib to secret CIA custody: the case of Khaled al-Maqtari*, AI Index: AMR 51/03/2008, at p16.

<sup>19</sup> 1 international knot = 1.852 km/hr.

<sup>20</sup> Note that these may or may not be agents directly related to the CIA, even though the "Rendition plane" has generally been identified as a CIA aircraft. As reflected in the discussion below, some of the pilots were clearly on contracts as part of the US rendition program.

<sup>21</sup> Note that US personnel were at all times responsible for Binyam Mohamed's mistreatment, and "custody" was never relinquished in a legal sense.

There were six rooms per house, and at least five houses in a group, with more further away. Three of the rooms were for the prisoners, one for interrogation, one for the guards and one empty. When I arrived, there were already two other prisoners in the other rooms.

From July 23<sup>rd</sup> to about August 15<sup>th</sup>, I was in the middle room of three. The wall was whitewashed. There was a large window, but it was shuttered.

I was then moved from the 15<sup>th</sup> to about the 22<sup>nd</sup> to the end room, which was next to the toilet. This was the dark, 'torture' room with wood paneling.

There was a metal fence all around. The trees outside were about ten metres high.

Reprieve has established that Binyam Mohamed had been brought to the notorious Temara detention centre, near Rabat.

Binyam's description of his journey and the features of this prison echoes the description of Temara in a 2004 report by Amnesty International. Amnesty describes Temara as a semi-underground detention centre;

operated by the DST, [Temara] is one of the main places where torture is reported to occur. Dozens of those arrested in the context of 'counterterrorism' measures have allegedly been subjected to torture or ill-treatment while being held there. Their detention at the centre has been both secret and unacknowledged, and consequently in breach of both Moroccan law and international human rights standards. It is located in a forested area outside the seaside town of Témara, which lies some 15km south of the capital Rabat in the direction of the city of Casablanca.<sup>22</sup>

The U.S. State Department's Bureau of Democracy, Human Rights and Labor's 2003 report on human rights practices in Morocco concurs with Binyam's description of his conditions of detention:

"Prison conditions [in Morocco] remained harsh [throughout 2002], and did not generally meet international standards....Extreme overcrowding, malnutrition, and lack of hygiene continued to aggravate the poor health conditions inside prisons."<sup>23</sup>

Binyam reports that he was tortured on countless occasions between July 2002 and January 2004, by a team of interrogators and others, most of whom were Moroccan. Some of the torturers wore masks, others not. At least one of the team

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<sup>22</sup> Amnesty International "Morocco/Western Sahara, Torture in the "anti-terrorism" campaign – the case of Témara detention centre" AI Index: MDE, pp 1 and 4.

<sup>23</sup> US State Department Bureau of Democracy, Human Rights and Labor, "Morocco: Country Reports on Human Rights Practices," 31 March 2003, <http://www.state.gov/drl/rls/hrrpt/2002/18284.htm>.

– an interrogator who told Binyam she was Canadian – is likely to have been a CIA agent.<sup>24</sup>

Binyam described his treatment in Morocco as going through several phases: first, an initial “softening up” phase, a subsequent “cycle of torture”, and finally “heavy” psychological and physical abuse.<sup>25</sup> In the first few weeks, Binyam was shackled and hung from walls and ceilings (again in the *strappado* position) and beaten:

They came in and cuffed my hands behind my back. Then three men came in with black ski masks that only showed their eyes...one stood on each of my shoulders and the third punched me in the stomach. The first punch...turned everything inside me upside down. I felt I was going to vomit. I was meant to stand, but I was in so much pain I'd fall to my knees. They'd pull me back up and hit me again. They'd kick me in the thighs as I got up. They just beat me up that night...I collapsed and they left. I stayed on the ground for a long time before I lapsed into unconsciousness. My legs were dead. I could not move. I'd vomited and pissed on myself.<sup>26</sup>

Next, Binyam describes how there was a quiet moment (the “phoney war”) where he was left alone, before his torturers started with the “heavy” torture. They stripped him naked and cut him with doctor's scalpel all over his body, including his genitals:

One of them took my penis in his hand and began to make cuts. He did it once and they stood for a minute, watching my reaction. I was in agony, crying, trying desperately to suppress myself, but I was screaming. They must have done this 20 or 30 times, in maybe two hours. There was blood all over. They cut all over my private parts. One of them said it would be better just to cut it off, as I would only breed terrorists...there were even worse things, too horrible to remember, let alone talk about.<sup>27</sup>

Binyam says that he said whatever his abusers wanted to hear in his interrogation sessions to avoid being tortured:

They said, if you say this story as we read it, you will just go to court as a witness and all this torture will stop. I could not take any more...and I eventually repeated what they read out to me. They told me to say I was with Bin Laden five or six times. Of course that was false. They continued with two or three interrogations a month. They weren't really interrogations – more like trainings, training me what to say.<sup>28</sup>

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<sup>24</sup> Reprieve file, *Binyam Mohamed Unclassified*, pp 6-7.

<sup>25</sup> Reprieve file, *Binyam Mohamed Unclassified*, pp 8-19.

<sup>26</sup> Reprieve file, *Binyam Mohamed Unclassified*, pp11-12.

<sup>27</sup> Reprieve file, *Binyam Mohamed Unclassified*, pp15-16.

<sup>28</sup> Reprieve file, *Binyam Mohamed Unclassified*, pp17-17.

Binyam's account of his torture and ill-treatment is at the extreme end of a continuum of similar accounts of other detainees recounted in research by international human rights organisations.<sup>29</sup>

Besides this physical and abuse and threats, Binyam's torturers used personal information to indicate to Binyam that they knew a lot about him, to further break him down and 'persuade' him to say what they wanted to hear. Binyam reports that he was told numerous details of his life in the UK – his education, the name of his kick-boxing trainer and his friendships in London. He had never mentioned these facts during interrogations – therefore, they could only have originated through collusion by the UK security or secret intelligence services. Binyam was shown photographs he was told had been given to his interrogators by MI5, and was told by an interrogator that the Moroccans had been working with the British.<sup>30</sup>

The UK security services recently gave evidence to the UK Intelligence and Security Committee in relation to these allegations. While the report is heavily redacted,<sup>31</sup> it is nonetheless clear that there was an admission made by UK intelligence. The Committee concludes:

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<sup>29</sup> See Human Rights Watch Report, "Morocco: Human Rights at a Crossroads", Vol. 16 No. 6(E), October 2004; FIDH Report "International Mission of Investigation, Morocco – Human Rights Abuses in the Fight Against Terrorism." No. 379/2, July 2004; Amnesty, "Morocco/Western Sahara, Torture in the "Anti-Terrorism Campaign – the Case of Temara detention Centre", AI Index: MDE 29/004/2004, June 2004. According to Amnesty International's account of routine torture in Temara detention centre in 2002 and 2003:

"The torture or ill-treatment has taken a number of forms during interrogation sessions. Some detainees have allegedly been blindfolded and handcuffed throughout the session; others have been stripped or suspended from the ceiling of the interrogation room in contorted positions. Many have reported being beaten around the body and the head with fists or an implement, such as a wooden stick or a metal ruler. Reports have also indicated that electric shock batons or live electrodes were applied to the body of some of the detainees. One former detainee, Abdellah Meski, told Amnesty International that he had his head repeatedly plunged into a sink containing water. Some have reportedly had an object, such as a bottle, forcibly inserted into the anus or been threatened with this treatment and other sexual abuse. Some say that they were also threatened with the arrest and rape or other sexual abuse of their wife or other female relative. Some former detainees have even reported hearing screams which they believed at the time might have been those of a female relative in an adjoining room, but later, after leaving the Témara centre and confirming that no female relative had been detained there, concluded this might have been a tape recording meant to dupe them. One former detainee told Amnesty International that, after being subjected to torture, he was given basic medical attention, though he believes no record was kept of the treatment. Former detainees have reported that, throughout their time at the Témara centre, whether for a few days or a few months, they were held in solitary confinement in basic cells, containing blankets on the floor rather than a bed, and a toilet and tap in one corner. They say they never saw other detainees and were not allowed outside the cell to enjoy fresh air or exercise. In addition, they were held in secret detention and denied contact with the outside world. Such conditions of detention may themselves amount to cruel, inhuman or degrading treatment, or even torture."

<sup>30</sup> Reprieve file, *Binyam Mohamed Unclassified*, pp 9-11.

<sup>31</sup> For example, the Committee reports that the Director General of the UK Security Service told them: "[redacted] ...when we knew he was in custody, because he had information we believed relevant to the UK from having lived here, [redacted]. A further two paragraphs are redacted]." UK Intelligence and Security Committee Rendition Report, July 2007, at p34.

*There is a reasonable probability that intelligence passed to the Americans was used in Al Habashi's subsequent interrogation.*<sup>32</sup>

Thus, British intelligence was used by the Moroccan torturers as part of their abuse of a British resident. Binyam Mohamed states that his recognition that the UK was complicit in his torture was a low point in his entire ghastly experience.

**The US and UK authorities have a duty to launch an enquiry into Binyam Mohamed's torture in Morocco, and to disclose that information to the public, Binyam's lawyers, and the relevant judicial authorities.**

*Investigatory follow up required regarding Binyam Mohamed's first Rendition flight includes the following (from the US):*

- *Identities of the American agents<sup>33</sup> who visited Morocco and met with Moroccan intelligence agents at any time between July 21, 2002, and January 22, 2004*
- *Any documents whatsoever in the possession of any US agency that relate to the time Binyam Mohamed spent in Morocco*
- *Any authorization by any US official authorizing or discussing the proposed rendition of Binyam Mohamed to Morocco*
- *Interviews under oath with each of these agents*
- *Any documents, reports, flight logs, manifests, passenger lists, or any other documents concerning the "CIA flights" made to and leaving from Rabat, Morocco, during the time that Binyam Mohamed was being tortured there, including those made on or around the following dates:*
  - *July 21, 2002 (from Islamabad, the flight carrying Binyam Mohamed; to Shannon, Eire)*
  - *Sept. 13-14, 2002 (indirectly from Diego Garcia, a flight implicated in recent revelations by British Foreign Secretary David Miliband; to Porto)*
  - *Sept. 17-18, 2002 (from Jordan, where other rendered prisoners were being abused, including Hassan bin Attash and Abdul al Shargawi; to Porto)*
  - *Dec. 11-12, 2002 (from Germany, to Kabul)*
  - *Feb. 7, 2003 (from Washington, to Poland, at the time of the establishment of a secret prison in Poland)*
  - *May 9-11, 2003 (from Larnaca, close to the British base; to Marrakech and then on to Washington)*
  - *June 4-5, 2003 (indirectly from Tashkent; to Porto),*
  - *June 6, 2003 (from Poland, at the time of the secret prison there; to Porto),*
  - *Sept. 22-23, 2003 (going on to Guantánamo),*
  - *Nov. 19, 2003 (indirectly from Baghdad),*
  - *Nov. 21, 2003 (from Kabul; going on to Guantánamo),*
  - *Dec. 2-3, 2003 (roundtrip from Washington to Porto to Rabat and finally to Guantánamo)*

<sup>32</sup> UK Intelligence and Security Committee Rendition Report, July 2007, at p34.

<sup>33</sup> Note that these may or may not be agents directly related to the CIA, even though the "Rendition plane" has generally been identified as a CIA aircraft. As reflected in the discussion below, some of the pilots were clearly on contracts as part of the US rendition program.

- Dec. 28, 2003 (from Guantánamo; going on to Jordan at the time of the abuse of rendered prisoners there)
- Jan. 21-22, 2004 (from Larnaca; going on to Kabul, rendering Binyam Mohamed to the “Dark Prison”)
- Any documents, reports, flight logs, manifests, passenger lists, or any other documents concerning the “CIA flights” made to and leaving from Rabat, Morocco, immediately after the time that Binyam Mohamed was being tortured there (evidence that US personnel were debriefing Moroccan partners, and suggesting that the rendition-to-torture agreement with Morocco was not concluded), including those made on or around the following dates:
  - Mar. 8-11, 2004 (indirectly from Kabul; going on to Guantánamo)
  - Mar. 25-26, 2004 (from Mauritania; going on to Tenerife and then Washington)
  - Mar. 27-29, 2004 (from Guantánamo; going on to Washington)
  - Apr. 12-13, 2004 (from Guantánamo, indirectly to Rabat and then back to Washington)
  - Apr. 13-14, 2004 (from Cape Verde; return indirectly to Washington)
  - May 3-5, 2004 (from Palma de Mallorca; to Sicily [Sgonella])
  - May 12-15, 2004 (from Jordan; to UK [Northolt])
  - May 21-22, 2004 (from Germany; return to Germany)
  - July 24-25, 2004 (roundtrip from Washington to Rabat)
  - July 30-31, 2004 (from Washington; return to Guantánamo via the Azores)
  - Aug. 1-3, 2004 (from Guantánamo; return to Washington via Tenerife)
  - Sep. 29 – Oct. 1, 2004 (from Washington via Tenerife; to Jordan)
  - Nov. 1-10, 2004 (from Germany via Algeria; to Mauritania and Senegal, and back to Rabat; return to Germany)
  - Jan. 16-17, 2005 (from London; on to Banjul, Gambia – rendition site of Bisher al Rawi & Jamil el Banna)
  - Feb. 12-15, 2005 (from Ethiopia; to Ibiza, Spain; back to Rabat; to Washington via Ibiza)
  - Feb. 4-5, 2005 (unknown origination; to Farnborough UK)
  - April 2-8, 2005 (from Morocco to UK, back to Morocco, back to UK)
  - April 24, 2005 (from UK to Morocco)
  - May 2, 2005 (from Morocco to UK)
- Copies of agreements between US and Moroccan authorities allowing US to render prisoners to Morocco for interrogation
- Copies of the relevant payment and transfer documents from the US to Morocco
- Instructions submitted by US officials to those interrogating Binyam Mohamed, and any contractual documents regarding payment for services ‘rendered’
- Records of any kind provided by the Moroccans, derived from oral reports by the Moroccans, or reports from US personnel at the prison during interrogation, concerning the ‘fruits’ of the interrogation of Binyam Mohamed while he was held in Morocco
- Photographs of Binyam Mohamed taken by the Moroccans or any others during the rendition process
- Photographs or other documents provided by the US or its allies to be shown to Binyam Mohamed during his interrogation

*Investigatory follow up required regarding Binyam Mohamed's first rendition flight includes the following (from the UK):*

- *Any documents, reports, flight logs, manifests, passenger lists, or any other documents concerning the "CIA flights" made to and leaving from the UK at any time since September 11, 2001, needed to prove the systematic nature of the rendition process, and identify witnesses among those on board the flights*
- *In particular, all documents of any nature concerning the known rendition flight through Diego Garcia in September 2002*
- *All materials provided to the US or Morocco as a result of any investigation into Binyam Mohamed (that might thereafter have been used during Mr. Mohamed's torture in Morocco, or at any other time during his illegal detention to date)*

## **BINYAM MOHAMED'S SECOND U.S. RENDITION: MOROCCO TO THE "DARK PRISON" IN KABUL, AFGHANISTAN**

An investigation of the "rendition flight circuit"<sup>34</sup> of the notorious Boeing 727 tail-number N313P,<sup>35</sup> that includes Binyam Mohamed's second transfer, gives insight into the clandestine world of US black sites and transfers to torture. In the space of twelve days, this plane made over ten stops and rendered at least seven individuals, including Binyam Mohamed and German citizen Khaled El-Masri, stopping off at US "black sites" that spanned three continents. In between, the plane and its crew made two stops at Palma de Mallorca where they stayed in luxury hotels and ran up a bill of \$160,000, before finally flying back to the United States laden with bottles of Cristal Champagne.<sup>36</sup>

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<sup>34</sup> A "rendition flight circuit" is a chain of connected rendition-related missions made by the same rendition plane within a limited period of time, typically between five days and two weeks. The rendition planes appear to be based in the United States, and during any one rendition circuit will stop off in numerous suspicious locations, ultimately returning to the US. See for example the analysis of rendition flights by the Council of Europe (Parliamentary Assembly of the Council of Europe, "Alleged Secret Detentions and Unlawful Interstate Transfers Involving Council of Europe Member States", AS/Jur (2006) 16 Part II).

<sup>35</sup> Human Rights Watch has identified N313P as the "plane that the CIA used to move several prisoners to and from Europe, Afghanistan, and the Middle East in 2003 and 2004 – it landed in Poland and Romania on direct flights from Afghanistan on two occasions in 2003 and 2004." According to Amnesty International, N313P-N4476S has "...396 recorded landings or taking offs between 22 November 2002 and 8 September 2005." [Amnesty International news Release: "EU: Rendition, revelation of 800 secret CIA flights in European airspace,"](#), April 2006. The plane was first registered to Stevens Express Leasing Inc., on 1 May it was re-registered by Premier Executive Transport Services, Inc., and finally re-registered on 1 December 2004 by Keeler and Tate Management, LLC, as N4476S. (This was the only plane registered by Keeler and Tate Management LLC. "Landing rights: Stevens Express Leasing Inc. and Premier Executive Transport Services were both permitted to land at US military bases worldwide. Their permits expired in 2005 and have not been renewed.) Like N379P, N313P was chartered by the Johnston County-based company "Aerocontractors". See Appendix 6. Aerocontractors has been associated with the CIA by media in the US and Europe, and is believed to have been the employer of three of Binyam Mohamed's rendition crew. See also Scott Shane, Stephen Grey and Margot Williams, "[C.I.A. Expanding Terror Battle Under Guise of Charter Flights](#)," 31 May 2005, New York Times. The company organising the logistics for this and other rendition planes is believed to be a subsidiary of Boeing called Jeppesen Dataplan that has offices in the US and the UK. See Appendix 5.

<sup>36</sup> Bob Drogin and John Goetz, "'Ghost Pilots' of the CIA's rendition team: The Times traces the identities of three facing kidnapping charges in Germany related to a 2003 operation", *Los Angeles Times*, 18 February 2007.



The twelve US personnel listed as passengers on the plane when it stopped off in Palma De Mallorca have been the subject of an inquiry in the Balearics, and are the subjects of Interpol arrest warrants by the Munich Prosecutor's Office in Bavaria for their involvement in the kidnap and abuse of German citizen Khaled El-Masri.<sup>37</sup>

### **Binyam Mohamed is rendered a second time by US personnel**

Early 16 January 2004, N313P left Washington for Shannon, arriving the same morning.<sup>38</sup> The Boeing and its twelve crew stayed overnight at Shannon before flying to Larnaca in Cyprus, where they stayed for four days.<sup>39</sup> There are two British military bases in Southern Cyprus, and the Council of Europe characterises Larnaca as a renditions "staging point" from which operations are launched, planes and crew prepare there, or meet in clusters.<sup>40</sup>

According to official Eurocontrol flight data, N313P then left Larnaca on the evening of 21 January, arriving in Rabat, Morocco at twelve minutes to midnight that night.<sup>41</sup> Binyam Mohamed says on the night of 21 to 22 January 2004 he was cuffed, blindfolded and driven for about 30 minutes in a van before being dropped at an airport.<sup>42</sup> Binyam's description of what happened next again matches the "methodology" of rendition described previously. Indeed, the photography he describes is also consistent.<sup>43</sup> In Binyam's own words:

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<sup>37</sup> "13 Arrests Ordered In Alleged CIA Case: Munich Authorities Issue Warrants in Kidnapping Of German Citizen", *CBS News* including material from *Associated Press*, 31 January, 2007.

<sup>38</sup> See "Flight Logs related to the Successive Rendition Operations of Binyam Mohamed and Khaled El-Masri in January 2004," Parliamentary Assembly of the Council of Europe, in "Alleged Secret Detentions and Unlawful Interstate Transfers Involving Council of Europe Member States", AS/Jur (2006) 16 Part II, at appendix 1. The Council of Europe has characterised Shannon as a "refuelling" stop-over point for renditions, and Shannon appears a large number of times in CIA rendition flight logs. The number of stopovers require further investigation by the Irish government. Such an investigation is required under international law, and if it is found that the Irish authorities have been complicit in any particular rendition operation, this would constitute a breach of numerous obligations under international and domestic law, including Article IV of the Convention Against Torture.

<sup>39</sup> See "Flight Logs related to the Successive Rendition Operations of Binyam Mohamed and Khaled El-Masri in January 2004," Parliamentary Assembly of the Council of Europe, in "Alleged Secret Detentions and Unlawful Interstate Transfers Involving Council of Europe Member States", AS/Jur (2006) 16 Part II, at appendix 1.

<sup>40</sup> Parliamentary Assembly of the Council of Europe, "Alleged Secret Detentions and Unlawful Interstate Transfers Involving Council of Europe Member States", AS/Jur (2006) 16 Part II, at p13

<sup>41</sup> See "Flight Logs related to the Successive Rendition Operations of Binyam Mohamed and Khaled El-Masri in January 2004," Parliamentary Assembly of the Council of Europe, in "Alleged Secret Detentions and Unlawful Interstate Transfers Involving Council of Europe Member States", AS/Jur (2006) 16 Part II, at appendix 2.

<sup>42</sup> See "Flight Logs related to the Successive Rendition Operations of Binyam Mohamed and Khaled El-Masri in January 2004," Parliamentary Assembly of the Council of Europe, in "Alleged Secret Detentions and Unlawful Interstate Transfers Involving Council of Europe Member States", AS/Jur (2006) 16 Part II, at appendix 2. See also *Binyam Mohamed Unclassified*, p19.

<sup>43</sup> Khaled El-Masri, Mohamed Al-Zeri were photographed during their renditions. Khaled El-Masri describes it as follows:

"They took off my blindfold...As soon as it was removed, a very bright flashlight went off and I was temporarily blinded. I believed from the sounds that they had taken photographs of me from throughout."

See declaration of Khaled El-Masri in support of Plaintiff's Opposition to the United States' Motion to Dismiss, in *El-Masri v. Tenet et al*, Eastern District Court of Virginia in Alexandria, 6 April 2006, at p9. See also, Office of the Parliamentary Ombudsman (Sweden), "Interview Conducted with State

It was a cold night. I was cuffed, blindfolded, put in a van and driven for about half an hour. Then they took me into a room, still blindfolded. It was dark.

It was January 21<sup>st</sup> or 22<sup>nd</sup>, 2004, at about 10pm. After waiting about two hours, I heard a plane. I know I was going to go. I heard an American accent. I knew then I was being transferred back to the Americans. It was me and two other prisoners.

There were five U.S. soldiers in black and grey, with face masks, and again with Timberland type boots. They did not talk to me. They cut off my clothes.

There was a white female with glasses. She took the pictures. One of the soldiers held my penis and she took digital pictures. This took a while, maybe half an hour.

She was one of the few Americans who ever showed me any sympathy. She was about 5'6", short, blue eyes. When she saw the injuries I had she gasped. She said, 'Oh, my God, look at that!' Then all her mates looked at what she was pointing at and I could see the shock and horror in her eyes.

Later, when I was in Afghanistan, they took more pictures. They were treating me, and one of them explained that the photos were "to show Washington it's healing."<sup>44</sup>

**The existence of these photographs has been verified by a journalist who wishes to remain anonymous. The journalist (referred to here as J) has spoken with a US intelligence agent who has seen pictures of Mr. Mohamed's genitals taken at this time. According to J, there were pictures taken later of Mr. Mohamed's genitals that were intended to assure "Washington" that the gruesome evidence of his torture had been cleaned up. This fits entirely with the unclassified statement of Mr. Mohamed, made in mid-2005.<sup>45</sup>**

Care must be taken to secure *all* the photographs, rather than simply those taken after efforts had been made at a cover-up.

N313P left Rabat with its human cargo at five minutes past two in the morning of 22 January 2004, arriving in Kabul at two minutes to ten. Binyam said:

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Official X of the Security Police (Sapo), Case No. 2169-2004, 30 September 2004, comment made at p13 ("He wasn't naked, he had his underpants on; the upper body was undressed and then his picture was taken."). See also Amnesty Report "Human Cargo" at p42 Al-Maqtari was stripped naked and had photos taken. See also Surviving the Darkness p15 Bashmilah describes being stripped and photographed. See also the Human Rights Watch Report online report "The Case of Marwan Jabour" who describes being stripped naked and videoed, at <http://www.hrw.org/reports/2007/us0207/2.htm> and "Surviving the Darkness" report which describes Mohammed Bashmilah having a finger inserted into his anus at p15.

<sup>44</sup> Reprieve file, *Binyam Mohamed Unclassified*, pp19-20.

<sup>45</sup> Reprieve file, *Binyam Mohamed Unclassified*, p16.

“It was about ten hours before we reached Kabul.<sup>46</sup> I was put in a truck. I was only in shorts and it was very cold. It seemed like we were driving along a dirt track. I was put in a prison called “The Prison of Darkness.”<sup>47</sup>

### The continuing Rendition circuit

N313P stayed in Kabul for a little over two hours, just enough time to “load up” with three Algerian detainees who were to be transferred from Bagram to Algiers on this leg of the rendition circuit. The plane arrived in Algiers that evening.<sup>48</sup> Nothing further is known of the fates of these men.<sup>49</sup>

The crew and plane spent a night and most of the following day in Palma de Mallorca for some rest and relaxation before embarking on their next mission.<sup>50</sup> They stayed in the “Hotel Mallorca Marriot Son Antem,”<sup>51</sup> racking up another expensive bill on the US taxpayers’ dime.<sup>52</sup>

The following day, N313P left Palma de Mallorca for Skopje, Macedonia in the evening of 23 January 2004. At eight pm - just four minutes after the plane touched down in Skopje - Khaled El-Masri says that he was brought out of the hotel room where he had been kept a prisoner for 23 days, driven for an hour and then taken to a building where, he was told, he would be given a medical examination before

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<sup>46</sup> Binyam’s account is consistent with the range and capacity of this plane: average range of 5,510 nautical miles at 522/542 knots (non-stop Washington Dulles-Tashkent in 11 hours, for example), and can transport up to 127 passengers.”

<sup>47</sup> Binyam Mohamed Unclassified p20

<sup>48</sup> See “Flight Logs related to the Successive Rendition Operations of Binyam Mohamed and Khaled El-Masri in January 2004,” Parliamentary Assembly of the Council of Europe, “Alleged Secret Detentions and Unlawful Interstate Transfers Involving Council of Europe Member States”, AS/Jur (2006) 16 Part II, at appendix 1.

<sup>49</sup> See FBI-Bagram-Transfers, a 2004 FBI memorandum released under Freedom of Information Act litigation in the US. At page bated-stamped 3911, this document shows that three unidentified prisoners were “repatriated” from Bagram to Algeria on 22 January 2004. The critical aspect of this “repatriation” is whether it was voluntary or whether they were being subjected to an illegal *refoulement* to a country where they would face persecution or torture. So long as the illegal rendition programme remains shrouded in secrecy, legal niceties such as whether a prisoner is being taken for further torture remain secret.

<sup>50</sup> See “Flight Logs related to the Successive Rendition Operations of Binyam Mohamed and Khaled El-Masri in January 2004,” Parliamentary Assembly of the Council of Europe, “Alleged Secret Detentions and Unlawful Interstate Transfers Involving Council of Europe Member States”, AS/Jur (2006) 16 Part II, at appendix 1. See also flight record for N313P arriving in Palma de Mallorca from Algeria on 22 January 2004, and leaving for Skopje in 23 January 2004; Reprieve File Mohamed Pilots 035754

<sup>51</sup> See Palma de Mallorca Hotel records 26/01/04-28/01/04, Reprieve file Mohamed Pilots 035754, at Appendix 2.

<sup>52</sup> See: Rhonda Schwartz, Maddy Sauer & Hoda Osman, “Luxurious Lifestyles Lead to CIA Arrest Warrants in Germany” ABC News, 31 January, 2007; at [http://blogs.abcnews.com/theblotter/2007/01/luxurious\\_lives.html](http://blogs.abcnews.com/theblotter/2007/01/luxurious_lives.html) (“Journalist Stephen Grey documented the agents’ visits to Spain in his book “Ghost Plane.” Grey reports that in addition to the five-star resorts, the flight crew stocked their plane with fine wine, crystal and shrimp cocktails, all at the expense of the U.S. government. “Three bottles of fine Spanish wine, two of Pesquera and an Alion, along with five crystal glasses” on one trip, according to receipts and interviews with former pilots obtained by Grey.”)

being taken back home to Germany.<sup>53</sup> In fact, this was merely the next phase of his long ordeal. In Khaled's own words:

I felt two people violently grab my arms, one from the right side and the other from the left. They bent both my arms backwards. This violent motion caused me a lot of pain. I was beaten severely from all sides. I then felt someone else grab my head with both hands so I was unable to move. Others sliced my clothes off. I was left in my underwear. Even this they attempted to take off. I tried to resist at first, shouting out loudly for them to stop, but my efforts were in vain. The pain from the beatings was severe. I was terrified and utterly humiliated. My assailants continued to beat me, and finally they stripped me completely naked and threw me to the ground. My assailants pulled my arms back and I felt a boot in the small of my back. I then felt a stick or some other hard object being forced in my anus. I realized I was being sodomized. Of all the acts these men perpetrated against me, this was the most degrading and shameful. I was then pulled to my feet and pushed into the corner of a room. My feet were tied together, and then, for the first time since the hotel, they took off my blindfold. As soon as it was removed, a very bright flashlight went off and I was temporarily blinded. I believe from the sounds that they had taken photographs of me throughout.

When I regained my vision, I saw seven to eight men standing around me, all dressed in black, with hoods and black gloves.

I was dressed in a diaper, over which they fitted a dark blue sports suit with short sleeves and legs. I was once again blindfolded, my ears were plugged with cotton, and headphones were placed over my ears. A bag was placed over my head and a belt around my waist. My hands were chained to the belt. They put something hard over my nose. Because of the bag, breathing was getting harder and harder for me. I struggled for breath and began to panic. I pictured myself like the images I had seen in the media of the Muslims that were brought to Guantánamo.

They bent me over, forcing my head down, and then hurried with me to a waiting car and then on to a waiting aircraft. They walked so fast that the pain at my joints was getting worse, as the iron of my shackles chafed against my ankles. When I tried to slow down they almost dislocated my shoulder. In the airplane, I was thrown down onto the floor and my arms and legs were spread-eagled and secured to the sides of the plane.

N313P flew through the night, stopping over in Baghdad for an hour and a half, and arriving in Kabul the following morning. Khaled reports:

“During the flight I received two injections, one in the left arm and one in the right arm, at different times. They put something over my nose. I think it was some kind of anaesthesia. It felt like the trip took about four hours,

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<sup>53</sup> See declaration of Khaled El-Masri in support of Plaintiff's Opposition to the United States' Motion to Dismiss, in *El-Masri v. Tenet et al*, Eastern District Court of Virginia in Alexandria, 6 April 2006, at p8

but I don't really remember. However, it appeared to be a much longer trip than the one to Germany.

I was mostly unconscious for the duration. I think the plane touched down once and took off again. When the plane landed for the final time I was fully conscious, although still a little light-headed. I was taken outside the aircraft. I could feel dry, warm air and knew immediately that the place where the plane had landed couldn't possibly be Europe.<sup>54</sup>

After dropping Khaled El-Masri off, N313P stayed overnight in Kabul, leaving on the evening of 25 January, arriving in Timisoara, Romania later that night. N313P stayed there for 72 minutes, leaving in the early morning of 26 January.<sup>55</sup>

N313P clearly had the capacity to reach Palma de Mallorca – its final destination that night – directly from Kabul, and indeed it had twice already flown further distances than this on the same circuit without stopping en-route. Romania has been reported as hosting a secret CIA black site near Timisoara during this time. In addition, witnesses and other sources familiar with US rendition operations consistently speak of the speed with which prisoners are bundled on and off rendition planes. One anonymous source described the process as a “twenty minute take-out”, saying “the CIA can do three of these guys in one hour. In twenty minutes they're good to go.”<sup>56</sup>

**This strongly suggests that prisoners were rendered from Afghanistan to Romania during this stage of the circuit.**

The Council of Europe has stated that “we can...confirm that the plane was not carrying prisoners to further detention when it left Timisoara. Its next destination, after all, was Palma de Mallorca, a well-established ‘staging point’ also used for recuperation purposes in the midst of rendition circuits.”<sup>57</sup> N313P arrived in Palma de Mallorca at a quarter to four in the morning of 26 January, and the twelve crew-members stayed in a luxury hotel for two days where, according to the LA Times.<sup>58</sup>

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<sup>54</sup> See declaration of Khaled El-Masri in support of Plaintiff's Opposition to the United States' Motion to Dismiss, in *El-Masri v. Tenet et al*, Eastern District Court of Virginia in Alexandria, 6 April 2006, at p10

<sup>55</sup> See “Flight Logs related to the Successive Rendition Operations of Binyam Mohamed and Khaled El-Masri in January 2004,” Parliamentary Assembly of the Council of Europe, “Alleged Secret Detentions and Unlawful Interstate Transfers Involving Council of Europe Member States”, AS/Jur (2006) 16 Part II, at appendix 1. See also confirmation from the records of the Romanian Civil Aeronautic Authority and the Romanian Ministry of National Defence, contained as annexes to the letters sent to Mr Dick Marty by Gyorgy Frunda, Chairman of the Romanian Delegation to PACE, dated 24 February 2006 and 7 April 2006.

<sup>56</sup> “Confidential interview with a source in the US intelligence community who wished to remain anonymous; interview carried out in the United States by the Rapporteur's representative”, Parliamentary Assembly of the Council of Europe, “Alleged Secret Detentions and Unlawful Interstate Transfers Involving Council of Europe Member States”, AS/Jur (2006) 16 Part II, at p21

<sup>57</sup> Parliamentary Assembly of the Council of Europe, “Alleged Secret Detentions and Unlawful Interstate Transfers Involving Council of Europe Member States”, AS/Jur (2006) 16 Part II, at p16.

<sup>58</sup> Direccion General De La Guardia Civil 1701 Comandancia Illes Balears Compania Puerto – Aeropuerto Palma, Diligencias Numero 065/2005, 23 March 2005, Anexo Numero Uno, Documentacion Mallorcair SI Aeronave Matricula N313P 26/01/04-28/01/04; Reprieve File Mohamed Pilots 036040-036077.

The forecast called for heavy snow on the route home, so the three pilots who had just flown a covert CIA-sponsored "extraordinary rendition" flight were forced to stay an extra night at the Gran Melia Victoria, a luxury hotel overlooking the marina on the island of Majorca.

Up in Room 552, the pilot who called himself Capt. James Fairing picked up the phone at 2:28 in the afternoon and dialled his tree-shaded home in a subdivision carved out of pine forests here in Clayton, about 15 miles southeast of Raleigh. He also called his employer, a North Carolina-based air charter service that long has worked for the CIA.

Fairing's copilot, who registered as Eric Matthew Fain, reached for the phone in his room and called a woman back home with whom he owns a 22-foot speedboat and who also flies missions for the CIA. The third pilot from the stranded flight carried a U.S. passport issued to Kirk James Bird. The passport photo shows a balding, middle-age man with a broad smile.<sup>59</sup>

N313P left for the United States just after ten in the morning of 28 January, arriving in Washington at nineteen minutes to ten that night.

### **Exposing "Captain Kirk" and the rest of the Rendition Crew & compelling their Testimony**

The plane that was used to render Binyam Mohamed from Morocco to Afghanistan stopped twice in Palma de Mallorca – once directly after dropping Binyam in Kabul (via Algiers, where it dropped off three Algerian nationals who had previously been detained in Bagram), and once en route to the US after completing its missions.<sup>60</sup>

This stopover proved the key to identifying some of the individuals who ran these rendition flights. Spanish investigative journalist Matthias Valles has been able to obtain passenger manifests for both of these flights – complete with names of the people on board – from Palma de Mallorca airport. He has also tracked down hotel records from two luxury hotels in Palma de Mallorca, with guest names that matched the names on the flight register. Valles has told how he researched a total of 42 names he found in the records of two hotels in Mallorca where the N313P rendition crew stayed. Most of these names have turned out to be "false identities", apparently created using the names of characters from well-known science-fiction productions, such as *Bladerunner* and *Star-Trek*.<sup>61</sup> Valles confirmed that most of the individuals who returned to Palma de Mallorca from Romania after the rendition

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<sup>59</sup> Bob Drogin and John Goetz, "Pilots traced to CIA renditions," LA Times, 18 February 2007.

<sup>60</sup> See "Flight Logs related to the Successive Rendition Operations of Binyam Mohamed and Khaled El-Masri in January 2004," Parliamentary Assembly of the Council of Europe, in "Alleged Secret Detentions and Unlawful Interstate Transfers Involving Council of Europe Member States", AS/Jur (2006) 16 Part II, at appendix 1.

<sup>61</sup> For example, "Rick Deckard" is protagonist of the movie *Bladerunner*, and the derivation of "Captain Kirk" need hardly be explained.

circuit were the same people who stayed in the hotel earlier in the circuit. This indicates that the “rendition team” remained on the plane throughout its trip.<sup>62</sup>

Some of these airport and hotel records later formed part of the documentation given to the prosecutor in the Palma de Mallorca federal inquiry into renditions.<sup>63</sup> The names and details of individuals listed on the passenger manifests given to the Palma de Mallorca federal inquiry are:<sup>64</sup>

- James Fairing, US passport number 402678113, pilot
- Jason Franklin, US passport number 900356543
- Michael Grady, US passport number 900356661
- Lyle Edgard Lumsden III, US passport number 900412531
- Eric Matthew Fain, US passport, crew
- Bryam Charles, US passport number 401036745<sup>65</sup>
- Charles Goldman Bryson, US passport number 086430334, crew<sup>66</sup>
- Kirk James Bird, US passport number 045030262
- Walter Richard Greesbore, US passport number 400962633
- Patricia O’Riley, US passport number 400962233, crew
- Jane Payne, US passport number 401036479
- James O’Hale, US passport number 017123652, crew
- John Richard Deckard, US passport number 900150778
- Hector Lorenzo, US passport number 900142900

The first crime that the US rendition crew committed, then, was to file false information with the flight. All of these “aliases” have been the subjects of Interpol arrest warrants and an indictment by the Munich Prosecutor’s Office in Bavaria, Germany for their involvement in the kidnapping and abuse of German citizen Khaled El-Masri.<sup>67</sup> According to press reports, the US indicated in advance that it would not consider the extradition of any of these individuals to Germany to stand trial,<sup>68</sup> and so extradition was never sought by the Germans.<sup>69</sup> This has left the

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<sup>62</sup> See Matias Valles, journalist with *Diario de Mallorca*, *Testimony before the TDIP Temporary Committee of the European Parliament*, 20 April 2006.

<sup>63</sup> See *Direccion General De La Guardia Civil 1701 Comandancia Illes Balears Compania Puerto – Aeropuerto Palma, Diligencias Numero 065/2005, 23 March 2005, Anexo Numero Uno, Documentacion Mallorcair SL Aeronave Matricula N313P 26/01/04-28/01/04, Reprieve File Mohamed Pilots 036040-036077.*

<sup>64</sup> See also appendixes 1 of this document for a table of information relating to aliases appearing on both of the flight manifests, and appendix 2 for the two flight manifests.

<sup>65</sup> The name “Bryam [*sic*] Charles” (US passport number 401036745) appears in the record for the period 22-23 January 2004 but does not appear in the records for the period 26-28 January 2004. Conversely, the name Charles Goldman Bryson (US passport number 086430334) appears in the records for the period 26-28 January 2004, but not in the records for the period 22-23 January 2004. It has not been possible to establish conclusively whether these names are in fact two different identities used by the same person. However given the facts that the rest of the crew stayed constant, the similarity of the names, the use of false identities by the group in general, and the limited opportunities and apparent reasons for changes in personnel, we consider it likely that these are two identities used by the same person.

<sup>66</sup> Only listed on records for 26-28 January 2004.

<sup>67</sup> “13 Arrests Ordered In Alleged CIA Case: Munich Authorities Issue Warrants in Kidnapping Of German Citizen”, *CBS News* including material from *Associated Press*, 31 January, 2007.

<sup>68</sup> See “International Extradition Order in El-Masri Case ‘US Displeased over German Hunt for CIA Agents’” *Der Spiegel*, 5 March 2007, and “CIA Arrest Warrants Strain US-German Ties”, *Der Spiegel (English edition)*, June 25, 2007.

victims of this kidnapping (including Binyam Mohamed and Khaled El Masri) without access to any meaningful justice, or even the chance to be given an explanation for their ordeal when rendered around the world by the US.

The likely “true identity” behind at least four of these aliases is already part of the public record. In three of these cases, the individuals are pilots who, according to the *LA Times*, live within 30 minutes of the offices of Aero Contractors.<sup>70</sup> The *LA Times* states that “flight records show that Aero Contractors, based in Smithfield, N.C., operated the plane that carried Binyam Mohamed from Morocco to the Dark Prison, and Khalid El Masri from Macedonia to Afghanistan. The charter aircraft company has flown scores of missions for the CIA and has played a key support role in counter-terrorism operations since the Sept. 11 attacks, according to former agency officials.”<sup>71</sup>

We do not wish to make anything public in this report that is not already public, as there are concerns that some of the personnel involved in these illegal activities may be US intelligence personnel and we would not wish to compromise their positions, notwithstanding their criminal acts. However, the US authorities should be forewarned that it was a simple matter for journalists to piece together several of these identities, and it is no harder to identify the others. The US must take steps to clean up its act in these illegal renditions, or the prosecution of US personnel is going to become ever more commonplace. The alleged identities of the pilots are an “open secret” – their homes have been visited by journalists from at least three major publications over the past year.<sup>72</sup>

According to *The Nation*:

...Aero and the pilots are under growing scrutiny. At the urging of Stop Torture Now and other groups, twenty-two state legislators sent a letter in January requesting the North Carolina Attorney General to get the State Bureau of Investigations involved.

Moreover, information relating to the true identities of those four alleged rendition crew-members has been published in television, print and electronic media in Germany.<sup>73</sup> Detailed information relating to four of the pilots’ “true” identities is

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<sup>69</sup> “No Justice for Khaled El-Masri – Germany Drops Pursuit of CIA Kidnappers” *Der Spiegel*, 24 September 2007.

<sup>70</sup> Because these individuals are apparently civilian contractors for the rendition flights, and their identities have already been made public by the *LA Times*, there is obviously no legal bar to printing the names here. However, their true identities will not be included, since the purpose of this report is not to bring them (as criminals) to justice, but rather illustrate why the US should never allow these crimes to be repeated.

<sup>71</sup> Bob Drogin and John Goetz, “Pilots traced to CIA renditions,” *LA Times*, 18 February 2007.

<sup>72</sup> Chris Kromm and Jill Daub, “Tracking the Ghost Pilots”, *The Nation*, 23 February 2007.

<sup>73</sup> See for example: “Suspected CIA Abductors Identified”, *Deutsche Welle*, 21 September 2006; “Suspected CIA Kidnappers Identified”, *Der Spiegel*, September 21, 2006; “13 Arrests Ordered In Alleged CIA Case: Munich Authorities Issue Warrants in Kidnapping Of German Citizen”, *CBS News* including material from *Associated Press*, 31 January, 2007; See “International Extradition Order in El-Masri Case ‘US Displeased over German Hunt for CIA Agents’” *Der Spiegel*, 5 March 2007, and “CIA Arrest Warrants Strain US-German Ties”, *Der Spiegel (English edition)*, June 25, 2007; “No Justice for Khaled El-Masri – Germany Drops Pursuit of CIA Kidnappers” *Der Spiegel*, 24 September 2007; Christina Stefanescu, “Wie enttarnt man einen CIA-Kidnapper? (How does one unmask a CIA kidnapper?)” (PDF), *Zusammenfassungen zur nr-Jahreskonferenz 2007 (Summaries*



currently available on the internet,<sup>74</sup> and information relating to two of those individuals was revealed by journalists at the 2007 proceedings of the German Journalists annual conference.<sup>75</sup> An outline of the results of investigation into these individuals is important as it illustrates the point previously made: illegal behaviour exposes US officials to a constant stream of international prosecutions, and it is impossible to cover up – so the US may as well clean up its own mess before others do so.

### \* “Uncle Bud”

“Uncle Bud”, or Lyle Edgard Lumsden III has used his “real” identity when working on renditions operations. One reason for this may be that Lumsden is a medical sergeant,<sup>76</sup> and it is extremely difficult to create a licensed medical “alias”. Lumsden was born on June 1955,<sup>77</sup> and his listed address from October was 5801 Nicholson LN 132 North Bethesda, MD 20852.<sup>78</sup> Lyle E. Lumsden’s social security number is 396-76-XXXX.

*Reprieve* has collated other information that illustrates how easy it is to obtain – and to illustrate why it is so important that the US hold its own inquiry rather than leave it to journalists. However, this section of the report remains *sealed* and is not released to the public.

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Lumsden’s father, Lyle E. Lumsden Jr., died on 29 November 2005. He had been a second Lieutenant with the US Army Coast Artillery Corps, directed a Parachute Infantry during combat in the Luzon campaign in the Philippines, and served in occupied Japan.<sup>79</sup>

Lyle E. Lumsden III has two sisters, Joanne Lumsden of Santa Rosa, California, and Carolyn Lumsden (married to Francesco Martini) who lives in Suffield.<sup>80</sup> Lumsden’s sister Carolyn Lumsden is 54 years old. She is a journalist and holds a

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to the NR yearly conference 2007), page 22, *netzwerkrecherche.de*, 2007; NDR Television “Grosse Show, Venig Wirkung – der Hilfloose Haftbefehl Gegen CIA-Agenten”, 5 April 2007.

<sup>74</sup> See “Sourcewatch” page for Lyle Edgard Lumsden III, at:

[http://www.sourcewatch.org/index.php?title=Lyle\\_Edgard\\_Lumsden\\_III](http://www.sourcewatch.org/index.php?title=Lyle_Edgard_Lumsden_III) (last checked 28 May 2008); and “Sourcewatch” page for James Kovalesky, at

[http://www.sourcewatch.org/index.php?title=James\\_Kovalesky\\_%28alias\\_James\\_Richard\\_Fairing%29](http://www.sourcewatch.org/index.php?title=James_Kovalesky_%28alias_James_Richard_Fairing%29) (last checked 28 May 2008); and “Sourcewatch” page for Harry Kirk Elarbee, at:

[http://www.sourcewatch.org/index.php?title=Harry\\_Kirk\\_Elarbee\\_%28alias\\_Kirk\\_James\\_Bird%29](http://www.sourcewatch.org/index.php?title=Harry_Kirk_Elarbee_%28alias_Kirk_James_Bird%29) (last checked 28 May 2008); and “Sourcewatch” page for Eric Hume, at:

[http://www.sourcewatch.org/index.php?title=Eric\\_Robert\\_Hume\\_%28alias\\_Eric\\_Matthew\\_Fain%29](http://www.sourcewatch.org/index.php?title=Eric_Robert_Hume_%28alias_Eric_Matthew_Fain%29) (last checked 28 May 2008).

<sup>75</sup> Christina Stefanescu, “Wie enttarnt man einen CIA-Kidnapper? (How does one unmask a CIA kidnapper?)” (PDF), *Zusammenfassungen zur nr-Jahreskonferenz 2007 (Summaries to the NR yearly conference 2007)*, page 22, *netzwerkrecherche.de*, 2007.

<sup>76</sup> See Carolyn Lumsden; Courant Editorial Writer, “A Brother in Bosnia; No US Troops?”, Hartford Courant (Connecticut), 13 February 1994; Reprieve file, Mohamed Pilots 035738.

<sup>77</sup> Mohamed Pilots 035753.

<sup>78</sup> Mohamed Pilots 035753.

<sup>79</sup> See Obituary of Lyle E. Lumsden Jr., The Hartford Courant, 1 December 2005; in Reprieve file Mohamed pilots 035736

<sup>80</sup> See Obituary of Lyle E. Lumsden Jr., The Hartford Courant, 1 December 2005, in Reprieve file Mohamed pilots 035736.

degree in English from Boston University, and a master's degree in journalism from Stanford University. Carolyn Lumsden was named Times Mirror journalist of the year in 1996, and the national Sigma Delta Phi Award for editorial Writing from the Society for Professional Journalists in 1995. Carolyn Lumsden is on the board of directors of the World Affairs Council of Greater Hartford.<sup>81</sup>

Lyle E. Lumsden III also has two brothers, David Kenny Lumsden (married to Mary), who lives in Manchester, MA; and William Clinton Lumsden (married to Genevieve), who lives in Medford, MA.<sup>82</sup> Ryan, Rebecca and Ginelle Lumsden are each either children of Lyle E Lumsden III or nieces/nephew.<sup>83</sup>

Lyle E. Lumsden is married to Janet Lumsden.<sup>84</sup> Janet Lumsden was born in December 1963, and her social security number is 396-76-XXXX.<sup>85</sup> Janet Lumsden speaks English, Polish, German and Spanish, and used to be a member of the US Special Forces.<sup>86</sup>

In keeping with his wife and father, Lumsden has had a distinguished career in the military. He was "dispatched from Fort Bragg as a civil affairs expert to Haiti"<sup>87</sup> as part of the US invasion to oust President Jean Bertrand Aristide. A report just after the invasion noted:

Lieutenant Lyle Lumsden, 39, a medical officer with the 96th Civil Affairs Battalion of the Special Forces unit in Jacmel, has been assessing the town. 'The first echelon of need - food, water, shelter - looks really good,' he said. 'I've been looking for signs of malnutrition and anemia, and to tell you the truth, haven't seen any.' The biggest problem in Jacmel, he found, is lack of electricity. The power plant in town has run out of diesel fuel, and the hydro plant outside town has broken down. The X-ray machine at the hospital in Jacmel, provided by CIDA, has also broken down, and the Special Forces will be asking CIDA to get it repaired.<sup>88</sup>

When floods hit Haiti a couple of months later, Lumsden was quoted on the relief operations:

Lt. Lyle Lumsden, a civil affairs expert from Fort Bragg attached to the Special Forces unit, said that before the flood, the city had been

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<sup>81</sup> See "Who Edits the 'Other Opinion' Page?", The Hartford Courant (Connecticut), 11 January 1998.

<sup>82</sup> See Obituary of Lyle E. Lumsden Jr., The Hartford Courant, 1 December 2005; in Reprive file Mohamed pilots 035736.

<sup>83</sup> See Obituary of Lyle E. Lumsden Jr., The Hartford Courant, 1 December 2005; in Reprive file Mohamed pilots 035736.

<sup>84</sup> According to Lyle Lumsden's sister Carolyn, who wrote in a 1994 article for the Hartford Courant. See Carolyn Lumsden; Courant Editorial Writer, "A Brother in Bosnia; No US Troops?", Hartford Courant (Connecticut), 13 February 1994; Reprive file, Mohamed Pilots 035738.

<sup>85</sup> Mohamed Pilots 035753.

<sup>86</sup> See Carolyn Lumsden; Courant Editorial Writer, "A Brother in Bosnia; No US Troops?", Hartford Courant (Connecticut), 13 February 1994; Reprive file, Mohamed Pilots 035738.

<sup>87</sup> "13 Arrests Ordered In Alleged CIA Case: Munich Authorities Issue Warrants in Kidnapping Of German Citizen", CBS News including material from *Associated Press*, 31 January, 2007.

<sup>88</sup> "Tranquillity rules in Haitian town - U.S. troops have established friendly links with the Haitian army but some think they are walking a tightrope", *The Globe and Mail (Canada)*, September 29, 1994.

relatively well off, compared to much of the impoverished island, given that it had electric power, some sanitation and a water treatment facility. 'But now, everything has come to a complete stop,' he said. 'They're doing a pretty good job of cleaning up, but they could use some help.' Lumsden said the soldiers have intervened to put medications from the relief organizations into the hands of local nuns, in order to keep a local physician and health official from stealing them and selling it in their privately owned pharmacies.<sup>89</sup>

Lyle E. Lumsden III then served in Bosnia with a US Special forces Unit called "Civil Military Operations Center"<sup>90</sup> as part of "Operation Provide Promise", giving him the chance to use the language skills he had acquired in military language school (Lumsden speaks Serbo-Croat). "Operation Provide Promise" was in existence from July 1992 to March 1996, and was a joint US Navy and Airforce operation involving both naval carrier aircraft and land-based air relief efforts.<sup>91</sup> During his army career, Lumsden has been stationed in Bavaria, Alaska, Brussels and Senegal.<sup>92</sup> In fact, Lumsden is a "Special Operations Medical Sergeant". His specialty code in the DOD database is 18D4LF1, he has "skill level 4", and "F1" additional skills in "Operations and Intelligence (Special Forces)".<sup>93</sup> "Skill level 4" medical training includes above all field medical operations, training of personnel in medical skills management of medical clinics and management of "guerrilla hospitals" in "unconventional warfare environments, also includes "develop[ing] medical intelligence when required", and "when directed, conducts operational intelligence planning, preparation and execution of detachment missions."<sup>94</sup> Lyle E. Lumsden III is listed as an active US army captain.<sup>95</sup>

Lumsden's current whereabouts are unknown. When contacted by *CBS News* about the German arrest warrant, Carolyn Lumsden professed both shock and ignorance of her brother's whereabouts:

'I just don't [know] anything about this,' Lumsden's sister, Carolyn, told *CBS News*. She could not say where her brother is at the present time or who he is working for... 'This is a nightmare,' his sister said. 'I just find this thing very Alice-in-Wonderland-like.'<sup>96</sup>

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Lumsden is wanted in Germany on charges of kidnapping and causing serious bodily harm to German citizen Khalid El-Masri.<sup>97</sup> The offences are alleged to have

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<sup>89</sup> Susanne M. Schafer, "Soldiers Turn Saviors in Haitian Floods", *Associated Press*, November 15, 1994.

<sup>90</sup> Mohamed Pilots 035738.

<sup>91</sup> Mohamed Pilots 035736.

<sup>92</sup> See Carolyn Lumsden; Courant Editorial Writer, "A Brother in Bosnia; No US Troops?", *Hartford Courant* (Connecticut), 13 February 1994; Reprive file, Mohamed Pilots 035738.

<sup>93</sup> See Reprive File 035737.

<sup>94</sup> See 18D – Special Operations Medical Sergeant; at Reprive File, Mohamed Pilots 035737.

<sup>95</sup> Mohamed Pilots 035740.

<sup>96</sup> "13 Arrests Ordered In Alleged CIA Case: Munich Authorities Issue Warrants In Kidnapping Of German Citizen", *CBS News* including material from *Associated Press*, January 31, 2007.

<sup>97</sup> "13 Arrests Ordered In Alleged CIA Case: Munich Authorities Issue Warrants In Kidnapping Of German Citizen", *CBS News* including material from *Associated Press*, January 31, 2007.

been committed as part of the CIA's extraordinary rendition program. According to German magazine *Der Spiegel*, "El-Masri says he was wrongly abducted on New Year's Eve 2003 in Macedonia and detained in various secret overseas prisons often referred to as 'black sites.' His five month ordeal finally ended when he was dumped on an abandoned road in Albania."<sup>98</sup>

### "James K"

In June 2007, *Der Spiegel* identified James Fairing, one of the Binyam Mohamed and Khaled El-Masri rendition crew, as "James K":

Munich district attorneys knew the captain of the Boeing 737 which carried Khaled el-Masri to Afghanistan after a stopover in Palma de Mallorca had the fictional name of "Fairing." Discovering his real identity became a matter of simple detective work. All a researcher had to do was enter the name "Fairing," along with other details -- such as his licenses to fly certain aircraft models, or special personal characteristics -- into the FAA database. The system soon produced the pilot's real name.

That was how the German investigators discovered that Captain James Fairing's real name is James K. And because K., 53, called his wife in North Carolina from a hotel in Mallorca, the investigators managed to track down his address. The captain lives in Johnston County, in a nice single-family home with a huge patio and garden.<sup>99</sup>

*Der Spiegel* reports that "a look at another database reveals that [James K] drives a Toyota and has a college degree in biology."<sup>100</sup> According to the University of Maryland's website, a James Kovalesky<sup>101</sup> graduated with a B.S. in Microbiology in 1976.<sup>102</sup> At the 2007 annual meeting of the German association of investigative reporters, journalists John Goetz and Stephen Grey identified James Fairing's full name as "James Kovalesky."<sup>103</sup>

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<sup>98</sup> "Suspected CIA Kidnappers Identified", *Der Spiegel*, September 21, 2006.

<sup>99</sup> "CIA Arrest Warrants Strain US-German Ties", *Der Spiegel (English edition)*, June 25, 2007.

<sup>100</sup> "CIA Arrest Warrants Strain US-German Ties", *Der Spiegel (English edition)*, June 25, 2007.

<sup>101</sup> While there is no legal requirement that this be done, since it has been previously published, the real name for James K has been substituted with another alias in the public version of this report. The purpose of this report is not to expose those who committed crimes (although some may think they deserve it), but issue a call for action to ensure that these crimes are properly investigated and then *never repeated* by the US.

<sup>102</sup> News and Events, Life Sciences Department, University of Maryland, February 2005.

<sup>103</sup> Christina Stefanescu, "Wie enttarnt man einen CIA-Kidnapper? (How does one unmask a CIA kidnapper?)" (PDF), *Zusammenfassungen zur nr-Jahreskonferenz 2007 (Summaries to the NR yearly conference 2007)*, page 22, *netzwerkrecherche.de*, 2007.



*One of the three alleged El-Masri rendition pilots who was photographed by Germany's ARD Television during an attempt to interview him.*

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A search of FAA records for James Kovalesky and James Richard Fairing shows that the two pilots have identical medical results, identical ratings and identical type ratings. Both pilots are also certified as mechanics, again with identical medical results and identical ratings.<sup>105</sup> James Kovalesky was born on 1 January 1954.<sup>106</sup> From May 1981 until at least July 2006, James Kovalesky lived at 1213 Swift Creek Drive, Clayton, Johnston County North Carolina, 27520-9812, telephone number (919) 989-8084.<sup>107</sup> As of July 2006, James Kovalesky owned "airport hangar #37" that was built in 1999 and registered to 1213 Swift Creek Drive, Clayton NC 27520-9812, Johnston County.

James Kovalesky owns three cars: a 2003 Toyota MR2 Spyder Convertible with license plate A846BP, a 1995 Toyota Previa LE – Sport Van with licence plate JTS8022, and a 1986 Toyota Supra-Liftback with licence plate EXA4804,<sup>108</sup> and is the registered owner of a CESSNA 170B aircraft with tail-number 611C.<sup>109</sup> In late September 2007, this plane was flown from Johnston County airport, where Kovalesky's employer Aero Contractors is based, to Bob Sikes Airport in Florida. The plane spent two days at Bob Sikes airport before being flown home. It made brief stop-offs at Middle Georgia Regional Airport (KMCN) on both the outward and return journeys. Bob Sikes Airport is notable for being the home airport of Tepper Aviation, Inc., a longstanding CIA proprietary airline which has itself been linked to extraordinary rendition.<sup>110</sup>

It is even easily established that James Kovalesky votes for the Republican Party.<sup>111</sup>

### **Eric Matthew Fain**

As well as being a listed pilot on Binyam Mohamed's rendition flight from Morocco to Afghanistan, Eric Fain appears on other suspicious flights stopping off in Palma de Mallorca. He is listed as a passenger on a flight manifest for Boeing 737 N313P when it stopped in Palma de Mallorca on 9 March 2004, coming from Mitiga in

<sup>104</sup> ↑ "CIA-Affäre (CIA Affair)", ARD Television website. Accessed from "Sourcewatch" website, at [http://www.sourcewatch.org/index.php?title=James\\_Kovalesky\\_%28alias\\_James\\_Richard\\_Fairing%29](http://www.sourcewatch.org/index.php?title=James_Kovalesky_%28alias_James_Richard_Fairing%29) (last checked 28 May 2008).

<sup>105</sup> See FAA flight records for James Kovalesky and James Richard Fairing, at Reprive file Mohamed Pilots 035766-035773.

<sup>106</sup> Mohamed Pilots 035758.

<sup>107</sup> Mohamed Pilots 035758.

<sup>108</sup> Mohamed Pilots 035760.

<sup>109</sup> Mohamed pilots 035762.

<sup>110</sup> Tracking data for N611C; (PDF copy of flightaware data for N611C for 20-22 September, 2007).

<sup>111</sup> Mohamed Pilots 035763.

Libya, leaving for Orebro in Sweden on 12 March 2004.<sup>112</sup> On the manifest, Eric Fain is recorded as carrying a US passport and his passport number is noted as being 400962110.<sup>113</sup> Fellow passengers also listed on the manifest include James Fairing, Lyle Edgard Lumsden III, and John Richard Deckard, all of whom have been implicated in CIA rendition operations.<sup>114</sup>

Eric Fain is also listed as a passenger on a flight manifest for Gulfstream V N313P when it stopped in Palma de Mallorca on 21 April 2004, coming from Mitiga in Libya and returning there five days later on 26 April 2004. On the manifest, Eric Fain is recorded as carrying a US passport and his passport number is noted as being 400962110.<sup>115</sup> During his final stay in Palma de Mallorca, Eric Fain made a phone-call from his hotel room to one Maria Luana Baetz,<sup>116</sup> who has been identified as a passenger on other suspicious flights passing through Palma de Mallorca.<sup>117</sup>



Left, a television reporter for German Panorama outside Eric Hume's house.

“Eric Fain” was publicly identified as “Eric Hume”<sup>118</sup> by the German association of investigative reporters (Netzwerk Recherche) at its annual conference of 2007.<sup>119</sup> A report of the proceedings of the 2007 annual conference of the German association of investigative reporters (Netzwerk Recherche) notes that investigative journalist John Goetz talked of a phone-call made by Fain when he and the rest of the El-Masri rendition team were forced to stay an unscheduled extra night in a hotel in Mallorca.<sup>120</sup>

According to the LA Times,

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<sup>112</sup> See Flight manifest obtained from Palma de Mallorca inquiry (Reprive file: Mohamed Pilots 03577).

<sup>113</sup> See Flight manifest obtained from Palma de Mallorca inquiry (Reprive file: Mohamed Pilots 03577).

<sup>114</sup> See Flight manifest obtained from Palma de Mallorca inquiry (Reprive file: Mohamed Pilots 03577).

<sup>115</sup> See Flight manifest obtained from Palma de Mallorca inquiry (Reprive file: Mohamed Pilots 03577).

<sup>116</sup> Her name has been changed in the public copy of this report.

<sup>117</sup> Christina Stefanescu, “Wie enttarnt man einen CIA-Kidnapper (How does one unmask a CIA kidnapper?)”, *Zusammenfassungen zur nr-Jahreskonferenz 2007 (Summary of the NR Annual Conference 2007)*, p22, netzwerkrecherche.de, 2007.

<sup>118</sup> His name has been changed in the public copy of this report.

<sup>119</sup> See Christina Stefanescu, “Wie enttarnt man einen CIA-Kidnapper (How does one unmask a CIA kidnapper?)”, *Zusammenfassungen zur nr-Jahreskonferenz 2007 (Summary of the NR Annual Conference 2007)*,

<sup>120</sup> Christina Stefanescu, “Wie enttarnt man einen CIA-Kidnapper (How does one unmask a CIA kidnapper?)”, *Zusammenfassungen zur nr-Jahreskonferenz 2007 (Summary of the NR Annual Conference 2007)*, p22, netzwerkrecherche.de, 2007.

Fairing's co-pilot, who registered as Eric Matthew Fain, reached for the phone in his room and called a woman back home with whom he owns a 22-foot speedboat and who also flies missions for the CIA.<sup>121</sup>

A search of FAA registration records for Eric Robert Hume and Eric Matthew Fain shows that Eric Fain and Eric Hume have almost identical FAA records: both have a medical class of second and must wear corrective lenses,<sup>122</sup> both hold an airline transport pilot certificate.<sup>123</sup> Both hold a certificate giving commercial privileges to land single-engine airplanes.<sup>124</sup> The only discrepancy is that Hume holds an advanced "ground instructor" certificate dating from 13 March 1999.<sup>125</sup> FAA records also show that both men hold type ratings<sup>126</sup> for the aircrafts A/B 737,<sup>127</sup> A/BE-300,<sup>128</sup> and A/G-V.<sup>129</sup> Combined, these ratings allow pilots to fly the CIA's favoured rendition aircraft (Boeing 737 and Gulfstream V jets), almost anywhere, including US military bases worldwide.

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Eric R. Hume lives with his father Robert Hume.<sup>130</sup> Robert Hume was the registered owner of numerous properties with Marcia J. Hume.<sup>131</sup> The LA Times reports that Fain is "a bearded man of 35 who lives with his father and two dogs in a separate subdivision."<sup>132</sup> Public records available for Eric R. Hume give his date of birth as September 1971, which would make him the same as the age given for Fain by the LA Times.<sup>133</sup>

Eric R. Hume is registered as living at \*\*\* Carlton Street, Clayton, NC 27520-3709<sup>134</sup> His registered telephone number is (919) 553 \*\*\*\*.<sup>135</sup> A television crew for German Panorama visited Fain/Hume's home in the autumn of 2006. When Mr Goetz said that he would like to speak to the occupant about Khaled El-Masri, an

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<sup>121</sup> Bob Drogin and John Goetz, " 'Ghost Pilots' of the CIA's rendition team: The Times traces the identities of three facing kidnapping charges in Germany related to a 2003 operation", *Los Angeles Times*, 18 February 2007.

<sup>122</sup> A medical certificate from an authorised doctor is required before an individual is allowed to fly solo. A second-class certificate is required for "commercial" pilots (as opposed to "airline transport" or "private" pilots). See FAA website at: <http://www.faa.gov/pilots/become/medical/>.

<sup>123</sup> FAA Registry, Eric Matthew Fain, See Reprive file Mohamed Pilots 035808.

<sup>124</sup> FAA Registry, Eric Matthew Fain, See Reprive file Mohamed Pilots 035808.

<sup>125</sup> See FAA certificates for Eric Matthew Fain on Reprive File, Mohamed Pilots 035808-035811.

<sup>126</sup> A type rating is a validation to fly certain aircraft.

<sup>127</sup> The Boeing 737, which is a short to medium range, single aisle, narrow body jet airliner. The rendition plane with tail-number N313P that was used to render Binyam Mohamed from Morocco to Afghanistan is a Boeing 737.

<sup>128</sup> This is an unusual type-rating that appears to only be issued to people in the military, and allows holders to land at US military bases.

<sup>129</sup> This type-rating authorises individuals to fly Gulfstream V aircraft, a favoured plane for CIA rendition operations.

<sup>130</sup> See public records search for Eric Hume at Reprive file Mohamed Pilots 035779.

<sup>131</sup> See public records search for Eric Hume at Reprive file Mohamed Pilots 035781-035787.

<sup>132</sup> Bob Drogin and John Goetz, " 'Ghost Pilots' of the CIA's rendition team: The Times traces the identities of three facing kidnapping charges in Germany related to a 2003 operation", *Los Angeles Times*, 18 February 2007.

<sup>133</sup> See public records search for Eric Hume at Reprive file Mohamed Pilots 035778.

<sup>134</sup> See public records search for Eric Hume at Reprive file Mohamed Pilots 035780.

<sup>135</sup> See public records search for Eric Hume at Reprive file Mohamed Pilots 035780.

older man came out of the building and chased the film crew off the land.<sup>136</sup> In the spring of 2007, the *Panorama* crew tried once again to talk with Eric Hume at his home. A sheriff's deputy arrived and asked the reporters to leave.<sup>137</sup>

Eric Fain is already wanted in Germany on charges of kidnapping and causing serious bodily harm to German citizen Khalid El-Masri.<sup>138</sup> As previously discussed, Khaled El-Masri alleges that he was abducted in Macedonia on New Years Eve 2003, before being bundled aboard a plane by Americans dressed in black and flown to Afghanistan for five months of incommunicado imprisonment and torture.<sup>139</sup>

### **“Captain Kirk” -- Kirk James Bird**

As well as being listed as a pilot on Binyam Mohamed's rendition flight from Morocco to Afghanistan, Kirk James Bird appears on other suspicious flights stopping off in Palma de Mallorca.

Kirk James Bird is listed as a passenger on a flight manifest for Boeing 737 N313P when it stopped in Palma de Mallorca on 9 March 2004, coming from Mitiga in Libya, leaving for Orebro in Sweden on 12 March 2004.<sup>140</sup> Fellow passengers also listed on the manifest include James Fairing, Lyle Edgard Lumsden III, and John Richard Deckard, all of whom have been implicated in CIA rendition operations.<sup>141</sup>

Over the past months, U.S. and German newspapers have given several different pieces of information about the real identity of Bird. His real first name is also Kirk, according to *Der Spiegel*: "German public broadcaster ARD also reported on Thursday that some of its journalists had been able to uncover the identities of at least three of the US agents in Spain under the aliases Eric Fain, James Fairing and Kirk James Bird... All kept their real first names..."<sup>142</sup> Bird lives within a half

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<sup>136</sup> John Goetz and Volker Steinhoff, "Al Masri-Entfuehrung – auf der Spur der CIA-Kidnapper", *Panorama*, 21 September 2006.

<sup>137</sup> NDR Television "Grosse Show, Venig Wirkung – der Hilflose Haftbefehl Gegen CIA-Agenten", 5 April 2007,

<sup>138</sup> Bob Drogin and John Goetz, " 'Ghost Pilots' of the CIA's rendition team: The Times traces the identities of three facing kidnapping charges in Germany related to a 2003 operation", *Los Angeles Times*, 18 February 2007.

<sup>139</sup> Khaled El-Masri's detention by the Americans finally ended when he was dumped on an abandoned road in Albania on 29 May 2005.

<sup>140</sup> See Flight manifest obtained from Palma de Mallorca inquiry (Reprive file: Mohamed Pilots 03577).

<sup>141</sup> See Flight manifest obtained from Palma de Mallorca inquiry (Reprive file: Mohamed Pilots 03577). For media reports, see: Bob Drogin and John Goetz, "'Ghost pilots' of the CIA's rendition team: The Times traces the identities of three facing kidnapping charges in Germany related to a 2003 operation", *Los Angeles Times*, 18 February, 2007; John Goetz, Marcel Rosenbach and Holger Stark, "CIA Arrest warrants Strain US-German Ties", 25 June 2007, *Der Spiegel*; Nicholas Richeter, "CIA in Europe: No Need for Disguise. The CIA Sends its People to Europe for Kidnapping Without Even Bothering to Disguise What They Are Doing," *Suddeutsche Zeitung*, 21 September 2006.

<sup>142</sup> "Suspected CIA Kidnappers Identified", *Der Spiegel*, September 21, 2006.



hour drive of the Johnston County Airport, according to both the *LA Times*<sup>143</sup> and *The Nation*.<sup>144</sup>

The real "Captain Kirk" lives within a twenty minute drive to the south-east of Raleigh, NC, according to *The Nation*,<sup>145</sup> "in a house that backs onto a private golf course", according to the *LA Times*.<sup>146</sup> In February 2007 James K" was 46, says the *LA Times*.<sup>147</sup>

Again, *Reprive* has sought to confirm the identity of this individual for the simple reason that he is a witness to the rendition and torture of numerous individuals, and should be subpoenaed to testify about these flights. In confirming Captain Kirk's true identity, first, there are 90 people in the FAA database who hold all the certificates that Captain Kirk does, where all the certificate types and certificate ratings match his. Of those 90 people, however, there is only one person who has 'Kirk' anywhere in his or her name. That is Harry Kirk Elarbee<sup>148</sup>, who happens to live in Clayton, North Carolina, the same town as the known El-Masri rendition pilots James Kovalsky and Eric Robert Hume.

Although Bird and Elarbee's certificate types and certificate ratings are a perfect match, their type ratings (that is to say, the types of plane they are qualified to fly) are not. Elarbee's type ratings are a superset of Bird's -- i.e. he can fly three additional types of plane. Furthermore, Elarbee's pilot limits includes a restriction on operating the BE-300, whereas Bird's is on the CE-500. Their medical class is the same (second). There is a slight discrepancy on the instructions for wearing glasses: Bird "must have available glasses for near vision", whereas Elarbee "must wear corrective lenses."<sup>149</sup>

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Although his legal first name is Harry, publicly available sources show that Elarbee uses Kirk as his first name: Elarbee is described as 'Kirk Elarbee' in an obituary in *The Brunswick News* marking the passing of his grandmother.<sup>150</sup> An edition of his church's newsletter welcoming Elarbee and his wife to the church describes him as "Kirk Elarbee".<sup>151</sup> Both separate sources also mention the same names for

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<sup>143</sup> Bob Drogin and John Goetz, "'Ghost pilots' of the CIA's rendition team: The Times traces the identities of three facing kidnapping charges in Germany related to a 2003 operation", *Los Angeles Times*, February 18, 2007.

<sup>144</sup> Chris Kromm & Jill Doub, "Tracking the Ghost Pilots", *The Nation (web only)*, February 23, 2007.

<sup>145</sup> Chris Kromm & Jill Doub, "Tracking the Ghost Pilots", *The Nation (web only)*, February 23, 2007.

<sup>146</sup> Bob Drogin and John Goetz, "'Ghost pilots' of the CIA's rendition team: The Times traces the identities of three facing kidnapping charges in Germany related to a 2003 operation", *Los Angeles Times*, February 18, 2007.

<sup>147</sup> Bob Drogin and John Goetz, "'Ghost pilots' of the CIA's rendition team: The Times traces the identities of three facing kidnapping charges in Germany related to a 2003 operation", *Los Angeles Times*, February 18, 2007.

<sup>148</sup> His name has been changed in the public copy of this report.

<sup>149</sup> See FAA records for Kirk James Bird and Harry Elarbee on Reprive File, Mohamed Pilots 035828-035838.

<sup>150</sup> "Edythe Smith" (obituary), *The Brunswick News*, April 30, 2005.

<sup>151</sup> "Welcome!", page 18, *The Garner Methodist Messenger*, Garner United Methodist Church, Garner, NC, volume XXXII, issue no. 18, September 27, 2006.

Elarbee's wife's name and his child's name. Public records,<sup>152</sup> and a blog maintained by a member of Elarbee's wife's family,<sup>153</sup> confirm that these names are Elizabeth Beesley (with whom he owns a property) and Houston Kirk Elarbee, all of which suggests that Harry Kirk Elarbee routinely used "Kirk" as his first name.

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The *LA Times* gave the true age of James Kirk Bird as 46 in February 2007.<sup>154</sup> Public records show that Elarbee was born on August 31, 1961.<sup>155</sup> Others show that Elarbee was born in 1960.<sup>156</sup> Elarbee's home address as of July 2006 was 1009 Loch Lomond Road Drive, Clayton, NC 27520-594.<sup>157</sup> Elarbee owns a 2004 Ford Explorer Eddie Bauer – 4 Dr Wagon Sport Utility with license plate SYX9196, and a 1997 Nissan Standard/XE-Pickup with license plate RNY5731.<sup>158</sup> Elarbee also owns a 2004 17ft Tracker Marine Pro 175AW (Aluminium) "pleasure boat"<sup>159</sup> with a "2004-Boat Trailer" with license plate BL17263,<sup>160</sup> and has a fishing permit for North Carolina.<sup>161</sup> Elarbee is caucasian.<sup>162</sup>

Once again, "Kirk James Bird" is wanted in Germany on charges of kidnapping and causing serious bodily harm to Khalid El-Masri, a German citizen of Lebanese descent.<sup>163</sup>

*Investigatory follow up required regarding Binyam Mohamed's second Rendition flight includes the following (from the US):*

- *Confirmation of the true identities of the American agents<sup>164</sup> who were involved in the rendition of Binyam Mohamed from Morocco to Kabul (see above)*

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<sup>152</sup> Records search verifying Harry Kirk Elarbee's date of birth, *PeopleFinders.com*. Undated, accessed July 25, 2007.

<sup>153</sup> "Beesley Lloyd Combobulation" (family blog), via Google cache, dated June 23, 2007.

<sup>154</sup> Bob Drogin and John Goetz, "'Ghost pilots' of the CIA's rendition team: The Times traces the identities of three facing kidnapping charges in Germany related to a 2003 operation", *Los Angeles Times*, February 18, 2007.

<sup>155</sup> Records search verifying Harry Kirk Elarbee's date of birth, see Reprive File Mohamed Pilots 035815.

<sup>156</sup> Public records search which gives Harry Kirk Elarbee's age as one year older than his true age, *PeopleFinders.com*. Undated, accessed July 26, 2007.

<sup>157</sup> Public Records search giving Harry Kirk Elarbee's address, see Reprive File Mohamed Pilots 035815.

<sup>158</sup> Public records search giving Harry Kirk Elarbee's registered motor vehicles, Reprive File Mohamed Pilots 035820.

<sup>159</sup> Public records search giving Harry Kirk Elarbee's registered watercraft, Reprive File Mohamed Pilots 035822

<sup>160</sup> Public records search giving Harry Kirk Elarbee's registered motor vehicles, Reprive File Mohamed Pilots 035820.

<sup>161</sup> Public records search giving Harry Kirk Elarbee's registered hunting and fishing permits, Reprive File Mohamed Pilots 035824.

<sup>162</sup> Public records search giving Harry Kirk Elarbee's voter registration, Reprive File Mohamed Pilots 035823.

<sup>163</sup> Bob Drogin and John Goetz, "'Ghost pilots' of the CIA's rendition team: The Times traces the identities of three facing kidnapping charges in Germany related to a 2003 operation", *Los Angeles Times*, February 18, 2007.

<sup>164</sup> Note that these may or may not be agents directly related to the CIA, even though the "Rendition plane" has generally been identified as a CIA aircraft. As reflected in the discussion below, some of the pilots were clearly on contracts as part of the US rendition program.

- *Interviews under oath with each of these agents, with a particular emphasis on the two women on board (“Jane Payne” being the woman most likely to have taken the photographs of Mr. Mohamed’s lacerated genitals):*
  - Patricia O’Riley, US passport number 400962233, crew
  - Jane Payne, US passport number 401036479
- *Any authorizations, reports or records of any kind made concerning the rendition flight*
- *Copies of agreements between US and Moroccan authorities allowing US to render prisoners out of Morocco*
- *Copies of agreements between US and Afghanistan authorities allowing US to render prisoners into Afghanistan in 2004*
- *Any documents from any source available to US authorities concerning this flight*
- *Instructions submitted by US officials to those rendering Binyam Mohamed, and any contractual documents regarding payment for services ‘rendered’ (e.g., if this was done on a contractual basis)*
- *Photographs of Binyam Mohamed taken by the US during the rendition process, from the moment of assuming formal custody of him from the Moroccans<sup>165</sup>*
- *Copies of the relevant payment and transfer documents*

*Investigatory follow up required regarding Binyam Mohamed’s second rendition flight includes the following (from the UK):*

- *Any flight records related to any rendition process by a US aircraft between January 20 and January 23, 2004*

## **BINYAM MOHAMED’S TORTURE IN THE “DARK PRISON” IN KABUL, AFGHANISTAN**

Binyam had been rendered by the US military to the Dark Prison, Afghanistan. He was held in the Dark Prison for five months, during which time he did not once see daylight:

The only light I saw came from the guards using flashlights to bring inedible food.<sup>166</sup>

The Dark Prison has been described as a CIA “black site” by Amnesty International, Human Rights Watch, and the international media.<sup>167</sup> Binyam’s description of the Dark Prison and his experience there concords with the independent accounts of other prisoners held in the same facility.<sup>168</sup> Amnesty International states that

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<sup>165</sup> Note that US personnel were at all times responsible for Binyam Mohamed’s mistreatment, and “custody” was never relinquished in a legal sense.

<sup>166</sup> *Binyam Mohamed Unclassified*, p20.

<sup>167</sup> Human Rights Watch, “U.S. Operated Secret ‘Dark Prison’ in Kabul,” 19 December 2005; Human Rights Watch, Human Rights Watch, “Ghost Prisoner: Two years in Secret CIA Detention”; “U.S. Operated Secret ‘Dark Prison’ in Kabul,” *Reuters*, 19 December 2005; “Algerian Tells of Dark Term in U.S. Hands,” *New York Times*, 7 July 2006; Amnesty International March 2008; USA: A Case to Answer. From Abu Ghraib to secret CIA custody. Khaled al-Maqtari; AI Index: AMR51/013/2008, p23.

<sup>168</sup> Human Rights Watch, “U.S. Operated Secret ‘Dark Prison’ in Kabul,” 19 December 2005; Human Rights Watch, Human Rights Watch, “Ghost Prisoner: Two years in Secret CIA Detention”; “U.S. Operated Secret ‘Dark Prison’ in Kabul,” *Reuters*, 19 December 2005; “Algerian Tells of Dark

Binyam was held in “cell number 17” during his stay in the Dark Prison.<sup>169</sup> Among other forms of torture and abuse, Binyam describes:

- being chained to the floor and forced to use a bucket as a toilet in the dark;
- forced stress positions;
- sleep alteration;
- starvation;
- sensory deprivation;
- being hung up with his hands suspended above his head for days at a time (*strappado*);
- having his head slammed repeatedly against the wall;
- “torture by music,” which involved being constantly played rap, heavy metal, thunder, the sounds of planes taking off, cackling laughter and horror sounds at a constant and high volume; and
- other “enhanced interrogation techniques” deployed by the United States in its black sites.<sup>170</sup>

Binyam describes almost constant interrogation in the Dark Prison:

Interrogation was right from the start, and went on until the day I left there. The CIA worked on people, including me, day and night for the months before I left. Plenty lost their minds. I could hear people knocking their heads against the walls and doors, screaming their heads off.<sup>171</sup>

*Investigatory follow up required regarding Binyam Mohamed’s torture in the “Dark Prison” in Kabul includes the following (from the US):*

- *Identities of the American agents who worked at or visited the “Dark Prison”<sup>172</sup> in Kabul at any time between January 1, 2002, and December 31, 2005*
- *Interviews under oath with each of these agents*
- *Identities and contact details of any other persons who worked at or visited the “Dark Prison” in Kabul at any time between January 1, 2002, and December 31, 2005*
- *Identities of any prisoners who were held at the “Dark Prison” in Kabul at any time between January 1, 2002, and December 31, 2005*
- *Any documents whatsoever in the possession of any US agency that relate to the time Binyam Mohamed spent in the Dark Prison*
- *Any authorization by any US official authorizing or discussing the proposed abuse and interrogation of Binyam Mohamed in the “Dark Prison”*

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Term in U.S. Hands,” *New York Times*, 7 July 2006; Amnesty International March 2008; USA: A Case to Answer. From Abu Ghraib to secret CIA custody. Khaled al-Maqtari; AI Index: AMR51/013/2008.

<sup>169</sup> Amnesty International March 2008; USA: A Case to Answer. From Abu Ghraib to secret CIA custody. Khaled al-Maqtari; AI Index: AMR51/013/2008, p23.

<sup>170</sup> *Binyam Mohamed Unclassified*, pp20-22.

<sup>171</sup> *Binyam Mohamed Unclassified*, p21. Corroborating testimony comes from Khaled Al Maqtari (below).

<sup>172</sup> The “Dark Prison” is simply the name that has come to be used for this prison, and it doubtless had another name when used by the US. However, since the US knows where it was holding Mr. Mohamed better than anyone, there should be no confusion as to the location that is referenced here.

- Any documents or photographs of any kind that reflect the conditions in the “Dark Prison” between January 1, 2002, and December 31, 2005
- Copies of agreements between US and Afghanistan authorities allowing US to hold prisoners in the “Dark Prison” for interrogation
- Copies of the relevant payment and transfer documents from the US to Afghanistan for services rendered in connection with the “Dark Prison”
- Instructions submitted by US officials to those interrogating Binyam Mohamed, and any contractual documents regarding payment for services ‘rendered’ as part of this interrogation
- Records of any kind provided by the Afghans, derived from oral reports by the Afghans, or reports from US personnel at the prison during interrogation, concerning the ‘fruits’ of the interrogation of Binyam Mohamed while he was held in the “Dark Prison”
- Photographs of Binyam Mohamed taken by any person during his time at the “Dark Prison”
- Photographs or other documents provided by the US or its allies to be shown to Binyam Mohamed during his interrogation at the “Dark Prison”

*Investigatory follow up required regarding Binyam Mohamed’s time in the “Dark Prison” includes the following (from the UK):*

- All information gathered by Britain concerning the treatment of prisoners, including but not limited to Binyam Mohamed, in the “Dark Prison”

## **ATTEMPTS TO “CLEAN UP” THE TORTURE IN BAGRAM, AFGHANISTAN**

In May 2004, after five months in the Dark Prison, Binyam Mohamed was taken (effectively, rendered once more) to the US prison at Bagram Airforce Base:

In May, we were transferred to Bagram Air Base by helicopter, tied like hens going for slaughter. We were thrown into the helicopter. After a flight of 20-23 minutes we landed at Bagram. We were tied for hours. We were blindfolded, with headphones.<sup>173</sup>

At Bagram Airforce Base, Binyam was forced to write out a statement prepared for him by US officials. Binyam says that he wrote and signed the document in a state of complete mental disarray, saying:

I don’t really remember [what I wrote], because by then I just did what they told me. Of course, by the time I was in Bagram I was telling them whatever they wanted me to hear.<sup>174</sup>

*Investigatory follow up required regarding Binyam Mohamed’s abuse in the cages of Bagram Airforce Base includes the following (from the US):*

<sup>173</sup> Binyam Mohamed Unclassified, at p23

<sup>174</sup> Binyam Mohamed Unclassified, pp 23-24

- *Identities of the American personnel who worked at or visited the detention cages of Bagram Air Force Base<sup>175</sup> near Kabul at any time that Binyam Mohamed was there, between May 1 and September 20, 2004, who had any contact with him*
- *Interviews under oath with each of these personnel*
- *Identities of any prisoners who were held at Bagram Air Force Base at any time between May 1 and September 20, 2004*
- *Any documents whatsoever in the possession of any US agency that relate to the time Binyam Mohamed spent at Bagram Air Force Base*
- *All documents concerning the operating procedures, official and unofficial, for the treatment of prisoners at any time that Binyam Mohamed was held in Bagram Air Force Base*
- *Any authorization by any US official authorizing or discussing the proposed abuse and interrogation of Binyam Mohamed at Bagram Air Force Base*
- *Any documents or photographs of any kind that reflect the conditions in Bagram Air Force Base between May 1 and September 20, 2004*
- *Copies of agreements between US and Afghanistan authorities allowing US to hold prisoners at Bagram Air Force Base for interrogation*
- *Copies of the relevant payment and transfer documents from the US to Afghanistan for leasing, or for services rendered, in connection with Bagram Air Force Base*
- *Instructions submitted by US officials to those interrogating Binyam Mohamed, and any contractual documents regarding payment for services 'rendered' as part of this interrogation*
- *Records of any kind, derived from oral reports, or reports from US personnel at the prison during interrogation, concerning the 'fruits' of the interrogation of Binyam Mohamed while he was held at Bagram Air Force Base*
- *Photographs of Binyam Mohamed taken by any person during his time at Bagram Air Force Base*
- *Photographs or other documents provided by the US or its allies to be shown to Binyam Mohamed during his interrogation at Bagram Air Force Base*
- *Any evidence that anyone ever told Binyam Mohamed that he had the right to counsel, or the right to a trial, on formal charges while he was being held in Bagram Air Force Base*

*Investigatory follow up required regarding Binyam Mohamed's abuse in the cages of Bagram Air Force Base includes the following (from the UK):*

- *All information gathered by Britain concerning the treatment of prisoners, including but not limited to Binyam Mohamed, in Bagram Air Force Base*
- *Copies of all complaints made by UK officials about the treatment of prisoners held in Bagram Air Force Base, including Binyam Mohamed*
- *Or, a statement that no complaint was made about the treatment of prisoners held in Bagram Air Force Base, including Binyam Mohamed*

## **BINYAM MOHAMED IS RENDERED TO GUANTÁNAMO BAY**

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<sup>175</sup> Bagram Air Force Base is comprised of several detention areas, include those kept secret from the ICRC and other similar bodies. Mr. Mohamed notes that all of this should be taken into account in seeking the truth about what was happening in the detention center at the time.

On 20 September 2004, US military aircraft registration RCH947 took off from Portuguese territory of Lajes on Terceira island in the Azores, apparently transporting ten 'ghost prisoners' to Guantánamo Bay.<sup>176</sup> Binyam Mohamed (ISN 1458, from Ethiopia, a British resident) arrived in Guantánamo that day along with nine other men, who were:

- Mohammed Kamin (ISN 1045) Afghanistan
- Saifullah Paracha (ISN 1094) Pakistan
- Bin Hamlili (ISN 1452) Algeria
- Sanad Yislam Al Kazimi (ISN 1453) Yemen
- Hassan Mohammed Ali Bin Attash (ISN 1456) Saudi Arabia
- Abdu Ali Al Haji Sharqawi (ISN 1457) Yemen
- Abdul Rabbani (ISN 1460) Pakistan
- Mohammed Ahmad Ghulam Rabbani (ISN 1461) Pakistan
- Abdul Al Salam Al Hilal (ISN 1463) Yemen

All of these 'ghost prisoners' had been very severely mistreated prior to their rendition through Portugal and were transported, with Portuguese assistance, to further torture and prolonged, illegal imprisonment in Guantánamo Bay. These men now face illegal military tribunals in Guantánamo, and may also be subject to the death penalty.

It appears that the prisoners were taken out of the aircraft, bound and shackled and led onto another plane, a C17 with call-sign RCH947, in which they completed their journey to Guantánamo.

Binyam describes being told in Bagram by US guards that he was going to Guantánamo Bay and that he would never leave. He recalls finally leaving Bagram airbase at around 6am on 19 September 2004. Binyam describes a stop-over of around 2 hours in daylight, in which he and other prisoners changed planes. The aircraft onto which he was transferred was a US military plane with seats laid out lengthways. Prisoners sat on one bench with guards facing them on the opposite side.

The US military aircraft was registered as a 'military flight', meaning that permission would have been required from the Portuguese Defense Ministry. The Minister of Defense at the time of this flight was Mr. Paulo Portas,<sup>177</sup> who is currently a Member of the National Parliament. Witnesses working at Lajes have described seeing prisoners transferred in chains from airplanes in the US base apparently twice in 2004 and again at the end of 2006 and that Portuguese workers had been given special instructions not to enter particular sections of the base.<sup>178</sup>

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<sup>176</sup> The flight that took the ten men has not yet been confirmed. There were two in-flights to Guantánamo Bay that day. These ten men could perhaps have been on either. However, since both passed through Portuguese jurisdiction, the ultimate responsibility of the Portuguese, and their legal liability, remains the same.

<sup>177</sup> Mr Paulo Portas appointment was between April 2002 and March 2005.

<sup>178</sup> See Expresso newspaper, Voos CIA - Prisioneiros ilegais nas Lajes, Janeiro 20, 200; <http://clpmorg.wordpress.com/2007/01/20/voos-cia-prisioneiros-ilegais-nas-lajes/> Prisioneiros ilegais nas Lajes.

*Investigatory follow up required regarding Binyam Mohamed's rendition from Afghanistan to Guantánamo Bay includes the following (from the US):*

- *Identities of the American personnel who played any role in the flight(s) that took Binyam Mohamed from Afghanistan to Guantánamo Bay on or about September 19-20, 2004*
- *Interviews under oath with each of these personnel*
- *All documents of any kind, including flight plans, flight logs, manifests, passenger lists, etc., concerning the flight(s) that took Binyam Mohamed from Afghanistan to Guantánamo Bay on or about September 19-20, 2004*
- *Any authorization by any foreign country representative, or any person associated with any organization such as NATO, discussing the flight that carried Binyam Mohamed to Guantánamo Bay or purporting to provide authorization for it to pass over foreign airspace*
- *Photographs of Binyam Mohamed taken by any person during his transfer from Afghanistan to Guantánamo Bay*

*Investigatory follow up required regarding Binyam Mohamed's rendition from Afghanistan to Guantánamo Bay includes the following (from the UK):*

- *All information gathered by Britain concerning the treatment of prisoners, including but not limited to Binyam Mohamed, in their transfer to Guantánamo Bay*
- *Copies of all complaints made by UK officials about the treatment of prisoners being transferred to Guantánamo Bay, including Binyam Mohamed*
- *Or, a statement that no complaint was made about the treatment of prisoners being transferred to Guantánamo Bay, including Binyam Mohamed*

*Investigatory follow up required regarding Binyam Mohamed's rendition from Afghanistan to Guantánamo Bay includes the following (from Portugal):*

- *Any authorization by any Portuguese representative discussing any flight to Guantánamo Bay between September 18 and 22, 2004*

## **BINYAM MOHAMED CONTINUES TO SUFFER ENDLESS MISTREATMENT IN GUANTÁNAMO BAY**

The prisoners landed in the heat of Cuba and were put in isolation from other prisoners for six days in Camp 5, in Delta Block.

“The air conditioning was put very cold. We would sleep on the bare floor, with its coldness as our bed and the chilly air as our blanket. We went on hunger strike for five days, we fell ill...”

Since he has arrived in Guantánamo Bay, Binyam Mohamed's treatment has continued to be terrible. Had Binyam been fairly convicted of the worst offense imaginable in the United States – even if he had been sentenced to death in a US court – his treatment would have been princely compared to that meted out in Guantánamo Bay.



Binyam has been beaten on more than one occasion, and pictures (as well as video footage) have been taken of his beating.

He was denied counsel for seven months after arriving at Guantánamo Bay, despite his requests for legal assistance. He was threatened and forced to make statements to the authorities which the US authorities plan to use against him in his military commission. He has been interrogated in flagrant violation of his rights. He has been denied medical care. He has been abused in numerous ways, all of which must be thoroughly investigated.

*Investigatory follow up required regarding Binyam Mohamed's mistreatment in Guantánamo Bay includes the following (from the US):*

- *All photographs taken of Binyam Mohamed, including the pictures and video taken in May 2006 when he was savagely beaten*
- *The names of all personnel involved in this beating of Mr. Mohamed in May 2006*
- *Interviews under oath with each of these personnel*
- *The names of all those who have interrogated him since his arrival at Guantánamo Bay*
- *Copies of all the interrogation logs, and any documentation of any interrogation, concerning Mr. Mohamed while he has been held at Guantánamo Bay*
- *Copies of all other statements or documents received or taken from Mr. Mohamed while he has been held at Guantánamo Bay*
- *Copies of all medical and mental health records concerning Mr. Mohamed while he has been held at Guantánamo Bay*
- *Copies of all operating procedures concerning the treatment of prisoners in Guantánamo Bay*

*Investigatory follow up required regarding Binyam Mohamed's mistreatment in Guantánamo Bay includes the following (from the UK):*

- *All information gathered by Britain concerning the treatment of prisoners, including but not limited to Binyam Mohamed, in Guantánamo Bay*
- *Copies of all complaints made by UK officials about the treatment of prisoners in Guantánamo Bay, including Binyam Mohamed*
- *Alternatively, a statement that no complaint was made about the treatment of prisoners in Guantánamo Bay, including Binyam Mohamed*
- *Copies of any documents received by the UK authorities concerning Mr. Mohamed of any kind (including medical records, interrogation records, allegations against him, etc.)*

## **WHAT NOW FOR BINYAM MOHAMED?**

Binyam Mohamed has never asked that anyone should accept his version of events on his word alone. All he has ever asked from the US is a fair trial with a meaningful chance to prove his innocence. But the military commissions fail the basic requirements of due process under any standard. Neither does anyone have to accept his allegations of rendition and torture without a full hearing, where the

alleged perpetrators are permitted to put their side of the case. But such a hearing has to be fair and open, not closed, with the outcome preordained.

Meanwhile, Binyam Mohamed faces an unjust military tribunal. In the face of mounting evidence to the contrary, the United States Government has consistently stated that it does not transfer individuals to third-party states for the *purpose* of torture,<sup>179</sup> whilst at the same time - in typically sanitized language - US Attorney-General John Bellinger has explained how in the eyes of the Administration, the practise of extraordinary rendition to torture may actually be regarded as “legal” by contorted use of legal semantics:

For those who say we’re not following our international obligations in certain cases, I have to say that sometimes it comes down to a disagreement on what the obligation is. With regard to Article 3 of CAT, this is a technical issue. The obligation under Article 3 of the Convention Against Torture requires a country not to return, expel or refouler an individual. For more than a decade, the position of the US Government, and our courts, has been that all of those terms refer to returns from, or transfers out from the United States. *So we think that Article 3 of the CAT is legally binding upon us with respect to transfers of anyone from the United States; but we don’t think it is legally binding outside the United States.*<sup>180</sup>

In plain English, outside the US anything goes.

Mr Bellinger’s explanation sidesteps the important issue of the abuse of rights and criminality involved in what is essentially a forcible aggravated kidnapping. His words illustrate why the Bush Administration has chosen to send people to third-party states for interrogation, and how the maintenance of prisons such as Guantánamo Bay and the CIA “black sites” located outside of the US mainland fit into the contorted “legal framework” constructed over the past seven years.

Some issues are patently obvious. If anyone doubts that Binyam Mohamed was taken to Morocco for torture, they would do well to ask themselves why else the CIA took him there. He is not Moroccan, he has nothing to do with Morocco, and he was not being taken for an 18-month Club Med vacation in Tangier. It was far

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<sup>179</sup> See for example “Remarks Upon Her departure For Europe,” Secretary Condoleeza Rice, Andrews Airforce Base, 5 December 2005.

<sup>180</sup> Interview cited in the Parliamentary Assembly of the Council of Europe, “Alleged Secret Detentions and Unlawful Interstate Transfers Involving Council of Europe Member States”, AS/Jur (2006) 16 Part II, at p59. Mr Bellinger continues: “...Similarly the Senate of the United States and our courts for more than ten years have taken a position that the words ‘substantial grounds’ means ‘more likely than not’. If we transfer a person from one point outside the United States to another point outside the United States then, as a policy matter, if we think there are substantial grounds to believe that the individual will be tortured or mistreated, we follow the same rules. I think it is a reasonable position for our courts to have set – that ‘substantial grounds’ means ‘more likely than not’. What I can say, though, is that there are different legal regimes between the European Court of Human Rights and our courts, and you can’t ‘beat up’ our courts and our Senate based on some things that they said ten years ago as how they interpret the law. You may wish that the ECtHR interpretation of the CAT was the same position that we have here, but it is not. We do, though, take our legal obligations seriously. And there needs to be a recognition that there may be different interpretation of the terms, but nonetheless the United States still takes our legal obligations seriously – and we do that.”

“more likely than not” that Binyam Mohamed would have been tortured in Morocco when he was sent there in 2002,<sup>181</sup> because torture was the only reason he was taken there at all.

In addition, despite their involvement from the start of his ordeal, and the numerous and credible allegations concerning Binyam Mohamed’s torture that have been in the public domain since 2005, neither the United States nor the British have bothered to investigate Binyam’s claims of torture.<sup>182</sup> Indeed, in a Freedom of Information response made on May 8 2008 by the British government to Mr. Mohamed’s UK lawyers, it was stated:

2. There are serious allegations widely referenced in the public domain that BM [Binyam Mohamed] was tortured whilst detained in Morocco [after being rendered there by the CIA]. I attach Amnesty International’s profile on him at Flag A as an illustration. BM’s habeas lawyers in the US (Reprieve) also claim to have a large body of evidence in support of his allegations that he was rendered (*sic*) to Morocco to face torture. They no doubt intend to use this to challenge any evidence alleged to be the result of torture during his trial. **The US informed us in Washington in February that they were not looking into the allegations of mistreatment.**<sup>183</sup>

The New York Times has confirmed this.<sup>184</sup>

It remains to be seen whether the British, the Americans, the Portuguese or various others complicit in these crimes will come clean on their roles in the shameful treatment of Binyam Mohamed over the past six years. At a minimum, it is an on-

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<sup>181</sup> According to Amnesty International, “[t]he sharp rise in reported cases of torture or ill-treatment in the context of “counterterrorism” measures in Morocco/Western Sahara since 2002 has been well documented. Reports on the subject have been published in recent months by Amnesty International<sup>1</sup> and other international human rights organizations, as well as by Moroccan human rights groups, including the Moroccan Human Rights Association (Association marocaine des droits humains, AMDH), and the Moroccan Human Rights Organization (Organisation marocaine des droits humains, OMDH). Human rights lawyers and victim support groups such as the Forum for Truth and Justice (Forum pour la vérité et la justice, FVJ), have spoken out about the violations, and the Moroccan and international press have highlighted the problem in numerous articles. The torture or ill-treatment is generally reported to take place in the custody of the security forces, particularly the Directorate for the Surveillance of the Territory (Direction de la surveillance du territoire, DST), and the police, where it is allegedly perpetrated in order to extract confessions or information, or to force the detainee to sign or thumb-print statements, the content of which they reject, deny or do not know. The scores of people allegedly tortured or ill-treated have been among hundreds of Islamists or presumed Islamists arrested and detained on suspicion of belonging to “criminal gangs” or of involvement in planning, inciting or carrying out violent acts. The arrests, numbering some 2,000 according to official sources, began in 2002 when the authorities began a clampdown on individuals accused of being part of groupings of Islamist activists...” Amnesty International report “Morocco/Western Sahara, Torture in the “anti-terrorism” campaign – the case of Témara detention centre” AI Index: MDE 29/004/2004, June 2004, at p1.

<sup>182</sup> The British Security Services have said they find it “regrettable” that they failed to seek assurances and to follow up on situation of Binyam Mohamed after he was taken from Pakistan: “\*\*\*. *That is a case where, with hindsight, we would regret not seeking proper full assurances at the time...*” UK Intelligence and Security Committee Rendition Report, July 2007, at p34.

<sup>183</sup> See Extract of submission – Foreign & Commonwealth Office Officials to Foreign Secretary David Miliband (20 March 2008) (underlining in original).

<sup>184</sup> Raymond Bonner, *British Judge Sets Hearing on Evidence for Detainee* (New York Times, June 6, 2008).

going crime that he should be deprived of the ability to challenge false evidence obtained in the torture chamber in the tribunals that he now faces. In the face of this Medieval preamble to what the US military would describe as a “trial”, the last words of the day must go to Binyam Mohamed:

I’m sorry I have no emotion when talking about the past, ‘cause I have closed. You have to figure out all the emotional part; I’m kind of dead in the head.<sup>185</sup>

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<sup>185</sup> See Parliamentary Assembly of the Council of Europe, “Alleged Secret Detentions and Unlawful Interstate Transfers Involving Council of Europe Member States”, AS/Jur (2006) 16 Part II, p47.

APPENDIX 1

Table of personnel associated with the rendition and torture of Binyam Mohamed

Identity listed on N313P log arriving at Palma de Mallorca on 22 January 2004 from Algeria, departing 23 January 2004 to Skopje; staying at Hotel Mallorca Marriot Son Antem.	Identity listed on N313P log arriving at Palma de Mallorca on 26 January 2004 from Romania, departing 28 January 2004 to Washington; staying at Hotel Gran Melia Victoria Palma de Mallorca.	Likely "Real" identity if in the public domain.	Notes to individual available from public sources.
Kirk James Bird, (USA), Passport number 045030262	Kirk James Bird, (USA), Passport number 045030262	Harry Kirk Elarbee (name edited in the public version of this report)	The <i>LA Times</i> gave the true age of James Kirk Bird as 46 in February 2007. <sup>186</sup> Public records show that Elarbee was born on August 31, 1961. <sup>187</sup> Others show that Elarbee was born in 1960. <sup>188</sup> Elarbee's home address as of July 2006 was 1009 Loch Lomond Road Drive, Clayton, NC 27520-594. <sup>189</sup> Elarbee owns a 2004 Ford Explorer Eddie Bauer – 4 Dr Wagon Sport Utility with license plate SYX9196, and a 1997 Nissan Standard/XE-Pickup with license plate RNY5731. <sup>190</sup> Elarbee also owns a 2004 17ft Tracker Marine Pro 175AW (Aluminium) "pleasure boat" <sup>191</sup> with a "2004-Boat Trailer" with license plate BL17263, <sup>192</sup> and has a fishing permit for North Carolina. <sup>193</sup> Elarbee is caucasian. <sup>194</sup>
James O'Hale, (USA), Passport	James O'Hale, (USA), Passport	No further details known	Same "alias" used on both stop-overs in Palma de Mallorca

<sup>186</sup> Bob Drogin and John Goetz, "'Ghost pilots' of the CIA's rendition team: The Times traces the identities of three facing kidnapping charges in Germany related to a 2003 operation", *Los Angeles Times*, February 18, 2007.

<sup>187</sup> Records search verifying Harry Kirk Elarbee's date of birth, see Reprieve File Mohamed Pilots 035815.

<sup>188</sup> Public records search which gives Harry Kirk Elarbee's age as one year older than his true age, *PeopleFinders.com*. Undated, accessed July 26, 2007.

<sup>189</sup> Public Records search giving Harry Kirk Elarbee's address, see Reprieve File Mohamed Pilots 035815.

<sup>190</sup> Public records search giving Harry Kirk Elarbee's registered motor vehicles, Reprieve File Mohamed Pilots 035820.

<sup>191</sup> Public records search giving Harry Kirk Elarbee's registered watercraft, Reprieve File Mohamed Pilots 035822

<sup>192</sup> Public records search giving Harry Kirk Elarbee's registered motor vehicles, Reprieve File Mohamed Pilots 035820.

<sup>193</sup> Public records search giving Harry Kirk Elarbee's registered hunting and fishing permits, Reprieve File Mohamed Pilots 035824.

<sup>194</sup> Public records search giving Harry Kirk Elarbee's voter registration, Reprieve File Mohamed Pilots 035823.

number 017123652	number 017123652		
James Fairing, (USA), Passport number 402678113	James Fairing, (USA, Pilot), Passport number 402678113	James Kovalesky (name edited in the public version of this report)	James Kovalesky was born on 1 January 1954. <sup>195</sup> From May 1981 until at least July 2006, James Kovalesky lived at 1213 Swift Creek Drive, Clayton, Johnston County North Carolina, 27520-9812, telephone number (919) 989-8084. <sup>196</sup> As of July 2006, James Kovalesky owned "airport hangar #37" that was built in 1999 and registered to 1213 Swift Creek Drive, Clayton NC 27520-9812, Johnston County.  James Kovalesky owns three cars: a 2003 Toyota MR2 Spyder Convertible with license plate A846BP, a 1995 Toyota Previa LE – Sport Van with licence plate JTS8022, and a 1986 Toyota Supra-Liftback with licence plate EXA4804, <sup>197</sup> and is the registered owner of a CESSNA 170B aircraft with tail-number 611C. <sup>198</sup> In late September 2007, this plane was flown from Johnston County airport, where Kovalesky's employer Aero Contractors is based, to Bob Sikes Airport in Florida.
Michael Grady, (USA), Passport number 900356661	Michael Grady, (USA), Passport number 900356661	No further details known	Same "alias" used on both stop-overs in Palma de Mallorca
Jason Franklin (USA), Passport number 900356543	Jason Franklin (USA), Passport number 900356543	No further details known	Same "alias" used on both stop-overs in Palma de Mallorca
Hector Lorenzo (USA), passport number 900142900	Hector Lorenzo (USA), passport number 900142900	No further details known	Same "alias" used on both stop-overs in Palma de Mallorca
John Decker (USA) Passport number 900142900	John Richard Deckard (USA) Passport number 900150778	No further details known	Not the same alias
Lyle Edgard Lumsden III(USA), Passport number 900412531	Lyle Edgard Lumsden III(USA), Passport number 900412531	Lyle Edgard Lumsden III(USA),	"Uncle Bud", or Lyle Edgard Lumsden III has used his "real" identity when working on renditions operations. One reason for this may be that Lumsden is a medical sergeant, <sup>199</sup> and it is extremely difficult to create a licensed medical "alias". Lumsden was born on June 1955, <sup>200</sup> and his listed

<sup>195</sup> Mohamed Pilots 035758.

<sup>196</sup> Mohamed Pilots 035758.

<sup>197</sup> Mohamed Pilots 035760.

<sup>198</sup> Mohamed pilots 035762.

<sup>199</sup> See Carolyn Lumsden; Courant Editorial Writer, "A Brother in Bosnia; No US Troops?", Hartford Courant (Connecticut), 13 February 1994; Reprive file, Mohamed Pilots 035738.

<sup>200</sup> Mohamed Pilots 035753.

			address from October was 5801 Nicholson LN 132 North Bethesda, MD 20852. <sup>201</sup> Lyle E. Lumsden's social security number is 396-76-XXXX.
Walter Richard Greesbore (USA), Passport number 400962633	Walter Richard Greesbore (USA), Passport number 400962633	No further details known	Same "alias" used on both stop-overs in Palma de Mallorca
Bryam Charles (USA), Passport number 401036479	Charles Goldman Bryson (USA) Passport number 086430334	No further details known	Similar but different aliases
Jane Payne (USA), Passport number 401036479	Jane Payne (USA)	Same "alias" used on both stop-overs in Palma de Mallorca. One of only two female crew-members, one of whom took photographs of Binyam's mutilated genitals on 21 January 2004 (see right).	"There was a white female with glasses. She took the pictures. One of the soldiers held my penis and she took digital pictures. *** She was one of the few Americans who ever showed me any sympathy. She was about 5'6", short, blue eyes. When she saw the injuries I had she gasped. She said, 'Oh, my God, look at that!' Then all her mates looked at what she was pointing at and I could see the shock and horror in her eyes. Later, when I was in Afghanistan they took more pictures. They were treating me, and one of them explained that the photos were 'to show Washington it's healing.'" <sup>202</sup>
Patricia Riloy (USA) Passport number 400963233	Patricia O'Riley (USA) 400962233	Same "alias" used on both stop-overs in Palma de Mallorca.	See above.
Eric Fair (USA) Passport number 400962110	Eric Matthew Fain (USA) Passport number 400962110	Eric R. Hume (name edited in the public version of this report)	Eric R. Hume is registered as living at 514 Carlton Street, Clayton, NC 27520-3709 <sup>203</sup> His registered telephone number is (919) 553 7640. <sup>204</sup> A television crew for German Panorama visited Fain/Hume's home in the autumn of 2006. When Mr Goetz said that he would like to speak to the occupant about Khaled El-Masri, an older man came out of the building and chased the film crew off the land. <sup>205</sup>

<sup>201</sup> Mohamed Pilots 035753.

<sup>202</sup> Reprieve file, *Binyam Mohamed Unclassified*, pp19-20.

<sup>203</sup> See public records search for Eric Hume at Reprieve file Mohamed Pilots 035780.

<sup>204</sup> See public records search for Eric Hume at Reprieve file Mohamed Pilots 035780.

<sup>205</sup> John Goetz and Volker Steinhoff, "Al Masri-Entführung – auf der Spur der CIA-Kidnapper", *Panorama*, 21 September 2006.

APPENDIX 2

Palma de Mallorca hotel and flight records, 22-23 January 2004

Instructor: P53390N	Número de Diligencias: 005/05
Secretario: C278198	Fecha: 23/03/2005
	Número de Folio: 101

**DILIGENCIA PARA HACER CONSTAR  
HOSPEDADOS  
HOTEL MALLORCA MARRIOTT SON ANTEM**

En Palma de Mallorca (IB) dependencias oficiales de la Guardia Civil, Aeropuerto de Son Sant Joan (Palma de Mallorca), a las 13.00 horas del día 05 ABRIL de 2005, esta instrucción acuerda abrir la presente diligencia para hacer constar los extremos siguientes:

En fecha 05 de marzo de 2005 se dirigió escrito a los hoteles Marriot Son Antem (Llucmajor) y Gran Meliá Victoria (Palma de Mallorca), para que facilitaran relaciones de entrada y salida de huéspedes, coincidentes con las fechas de llegadas y salidas de las aeronaves objeto de ésta diligencias.

Establecido un filtro sobre dichas relaciones, teniendo en cuenta cualquier dato relacionado con dichas aeronaves, seguidamente se reflejan los alojados en el hotel Mallorca Marriot Son Antem (Llucmajor).

En la siguiente relación se hacen constar los datos facilitados por el hotel y se reseñan los vuelos coincidentes en fechas efectuados por las aeronaves en cuestión.

Comprobando los datos facilitados, se señalan las personas sobre las cuales se tiene una certeza aceptable que son parte de la tripulación:

1º.- Entrada 22-01-2004      -Salida 23-01-2004-

FECHA LLEGADA	PROCEDENCIA	MATRÍCULA AERONAVE	FECHA SALIDA	DESTINO
22/01/04	Argel (Argelia)	N313P B-737	23/01/04	Skopje (Macedonia)

NOMBRE Y PASAPORTE	
✓	Kirk James BIRD 045030262 (USA) Tripulación.
✓	James OHALE 017123652 (USA)
✓	James FAIRING 402678113 (USA) Tripulación.
✓	Michael GRADY 900356661 (USA)
✓	Jason FRANKLIN 900356543 (USA)
✓	Hector LORENZO 900142900 (USA)
✓	John DECKER 900150778 (USA) <i>(cap John Richard Decker)</i>
✓	Lyle Edgard LUMSDEN III 900412531 (USA)
✓	Walter Richard GREESBORN 400962633 (USA) Tripulación.
✓	Bryan CHARLES 401036745 (USA)
✓	Jane PAYNE 401036479 (USA)
✓	Patricia Riley 400963233 (USA) <i>(apunte Patricia O'NEIL)</i>
✓	Eric FAIR 400962110 (USA)

Tomo: 7PAX

Aeropuerto Palma de Mallorca      Teléfono: 971 789325  
07000 Palma      Fax: 971 789022

10/02 '06 VIE 17:03 IN TL/RX 8363 000



APPENDIX 3

Palma de Mallorca hotel and flight records, 26-28 January 2004

Instructor: P53390N  
 Secretario: C27819S

Número de Diligencias: 065/05  
 Fecha: 23/03/2005  
 Número de Folio: 97

**DILIGENCIA PARA HACER CONSTAR  
 HOSPEDADOS  
 HOTEL GRAN MELIA VICTORIA  
 PALMA DE MALLORCA**

En Palma de Mallorca (IB) dependencias oficiales de la Guardia Civil, Aeropuerto de Son Sant Joan (Palma de Mallorca), a las 09:00 horas del día 07 marzo de 2005, esta instrucción acuerda abrir la presente diligencia para hacer constar los extremos siguientes:

En fecha 05 de marzo de 2005 se dirigió escrito a los hoteles Marriot Son Antem (Llucmajor) y Gran Meliá Victoria (Palma de Mallorca), para que facilitaran relaciones de entrada y salida de huéspedes, coincidentes con las fechas de llegadas y salidas de las aeronaves objeto de ésta diligencias.

Establecido un filtro sobre dichas relaciones, teniendo en cuenta cualquier dato relacionado con dichas aeronaves, seguidamente se reflejan los alojados en el hotel Gran Meliá Victoria (Palma de Mallorca).

En la siguiente relación se hacen constar los datos facilitados por el hotel y se reseñan los vuelos coincidentes en fechas efectuados por las aeronaves en cuestión:

1º.-) -Entrada 26-01-2004 -Salida 28-01-2004

FECHA LLEGADA	PROCEDENCIA	MATRÍCULA AERONAVE	FECHA SALIDA	DESTINO
28/01/04	Timisoara (Rumania)	N313P B-737	28/01/04	Washington

**NOMBRE Y PASAPORTE**

James FAIRING 402678113 (USA) Piloto
Jason FRANKLIN 900356543 (USA)
Michael GRADY 900356661 (USA)
Lyle Edgard LUMSDEN III 900412531 (USA)
Eric Matthew FAIN 400962110 (USA) Tripulación. <i>Sule PMA</i>
Charles Goldman BRYSON 086430334 (USA) Tripulación.
Kirk James BIRD 045030262 (USA)
Walter Richard GREESBORE 400962633 (USA)
Patricia O'RILEY 400962233 (USA) Tripulación.
Maree FAYNE (USA)
James GHALE 017123652 (USA) Tripulación.
John Richard DECKARD 900150778 (USA)
Héctor LORENZO 900142900 (USA)

Aeropuerto Palma de Mallorca  
 07000 Palma

Teléfono: 971 789325

10/02 '08 VIR 17:03 (N° TX/RX 8363) 0026



## APPENDIX 4

### Flight Logs related to the Rendition of Binyam Mohamed to Morocco on July 21-22, 2002

Registration Number of Airplane (N-Number)	Airport of Departure (ADP)	ADP Name	Airport of Destination (ADD)	ADD Name	Date	Takeoff Time (GMT) (GMT-04)	Arrival Time (GMT)	Altitude Type	Registered Owner of Airplane
N223P	KLAD	WASHINGTON	EECP	FRANKFURT MAIN	11/07/2002	10:00:00	07:40	SLPS	FRANKFURT AIRCRAFT LEASING CO
N223P	EECP	FRANKFURT MAIN	LTAD	AGADIR (MOROCCO)	11/07/2002	10:13:14	13:50	SLPS	FRANKFURT AIRCRAFT LEASING CO
N223P	LTAD	AGADIR (MOROCCO)	EECP	FRANKFURT MAIN	11/07/2002	10:12:14	10:01	SLPS	FRANKFURT AIRCRAFT LEASING CO
N223P	EECP	FRANKFURT MAIN	GAJH	JERUSALEM (WEST BANK)	11/07/2002	10:15:40	10:01	SLPS	FRANKFURT AIRCRAFT LEASING CO
N223P	GAJH	JERUSALEM (WEST BANK)	CPKE	CYPRUS (NICOZIA AIRPORT)	11/07/2002	10:21:10	01:25	SLPS	FRANKFURT AIRCRAFT LEASING CO
N223P	GAJH	JERUSALEM (WEST BANK)	CPKE	CYPRUS (NICOZIA AIRPORT)	11/07/2002	10:20:00	01:25	SLPS	FRANKFURT AIRCRAFT LEASING CO
N223P	CPKE	CYPRUS (NICOZIA AIRPORT)	GAJH	JERUSALEM (WEST BANK)	11/07/2002	11:17:00	03:42	SLPS	FRANKFURT AIRCRAFT LEASING CO
N223P	GAJH	JERUSALEM (WEST BANK)	EECP	FRANKFURT MAIN	11/07/2002	11:04:44	07:21	SLPS	FRANKFURT AIRCRAFT LEASING CO
N223P	EECP	FRANKFURT MAIN	KLAD	WASHINGTON	11/07/2002	11:08:00	10:07	SLPS	FRANKFURT AIRCRAFT LEASING CO

## APPENDIX 5

### Flight Logs related to the Successive Rendition Operations of Binyam Mohamed and Khaled el-Masri in January 2004

Registration Number or Call sign (UL-Number)	Airport of Departure (ADBP)	ADBP Name	Airport of Destination (ADDD)	ADDD Name	Date	Take-off Time (UTC) (DD:MM:SS)	Arrival Time (UTC) (DD:MM:SS)	Altitude Type	Registered User or Operator Name
N313P	KIAD	WASHINGTON	EINN	SHARNON	16/01/04	16:01:25	07:29	0737	STEPHENS SUPERSONIC
N313P	EINN	SHARNON	LCLK	LARNACA	17/01/04	17:10:33	15:03	0737	STEPHENS SUPERSONIC
N313P	LCLK	LARNACA	GMME	PARAT	21/01/04	21:10:39	23:40	0737	STEPHENS SUPERSONIC
N313P	GMME	PARAT	OAKB	MARSA	22/01/04	22:02:05	09:50	0737	STEPHENS SUPERSONIC
N313P	OAKB	MARSA	DAAG	AUTONOMAUS BILMEDIENHEIT 332204	22/01/04	22:12:59	19:54	0737	STEPHENS SUPERSONIC
N313P	DAAG	AUTONOMAUS BILMEDIENHEIT 332204	LEPA	PALMA DE MALLORCA	22/01/04	22:21:36	22:09	0737	STEPHENS SUPERSONIC
N313P	LEPA	PALMA DE MALLORCA	LWSK	SKOPJE BULGARIJA	23/01/04	23:17:40	19:56	0737	STEPHENS SUPERSONIC
N313P	LWSK	SKOPJE BULGARIJA	ORBI	INSHENQ INTERNATIONAL	24/01/04	24:01:30	05:53	0737	STEPHENS SUPERSONIC
N313P	ORBI	INSHENQ INTERNATIONAL	OAKB	MARSA	24/01/04	24:07:15	11:54	0737	STEPHENS SUPERSONIC
N313P	OAKB	MARSA	LETR	TARICHA / GUARNATA 332204	24/01/04	25:10:23	23:51	0737	STEPHENS SUPERSONIC
N313P	LETR	TARICHA / GUARNATA 332204	LEPA	PALMA DE MALLORCA	24/01/04	25:01:53	03:45	0737	STEPHENS SUPERSONIC
N313P	LEPA	PALMA DE MALLORCA	KIAD	WASHINGTON	24/01/04	24:10:08	18:41	0737	STEPHENS SUPERSONIC

## APPENDIX 6

### Jeppesen – torture trip planners for the CIA

Boeing subsidiary Jeppesen Corporation offers a wide range of logistical support for aeronautical activities. In its public communications, Jeppesen represents itself as specialising in aeronautical charting and navigation services, flight planning, pilot supplies, and aviation training. Jeppesen has offices around the world, in Englewood, San Jose, Atlanta, Wilsonville and Washington D.C., (U.S.) Neu Isenburg (Germany), Moscow (Russia), Canberra (Australia), Crawley and Newbury (UK).<sup>206</sup>



***“We do all of the extraordinary rendition flights – you know, the torture flights. Lets face it, some of those flights do end up that way....It certainly pays well.”***

**Bob Overby, Jeppesen MD**

#### **Jeppesen’s Crawley UK office<sup>207</sup>**

Not mentioned in its brochure or on its website are some of Jeppesen’s other activities: According to the New Yorker, the Council of Europe, New York University Centre for Global Justice, and other NGOs, Jeppesen is heavily involved in extraordinary rendition.<sup>208</sup>

On 30 May 2007 the American Civil Liberties Union and Reprieve filed a complaint against Jeppesen on behalf of plaintiffs Binyam Mohamed, Abou Elkassim Britel and Ahmed Agiza,<sup>209</sup> for providing essential flight services to the CIA for its extraordinary rendition/torture flights. The suit alleges that, since 2001 Jeppesen,

“has provided direct and substantial services to the United States for its so-called “extraordinary rendition” program, enabling the clandestine and forcible transportation of suspects to secret

<sup>206</sup> 1.1.51 Jeppesen Webpage – Office Locator, found at <http://www.jeppesen.com>.

<sup>207</sup> From Jeppesen’s website: <http://www.jeppesen.com/wlcs/images/about/jepCrawley.jpg>.

<sup>208</sup> Jane Mayer, “The CIA’s Travel Agent”, the New Yorker, 30 October 2006; Council of Europe Parliamentary Assembly Committee on Legal Affairs and Human Rights: Secret Detention and Illegal Transfers of Detainees involving Council of Europe Member States: Second Report AS/Jur (2007) 37; 7 June 2007; ajdoc36 2007 at paras 184-186; *Binyam Mohamed, Abou Elkassim Britel and Ahmed Agiza v Jeppesen Dataplan, inc.* In the United States District Court for the District of Northern California Civil Action No. C 07 2798. NYC Centre for Global Justice joined this suit in July 2007.

<sup>209</sup> Reprieve client British resident Bisher Al-Rawi has since been added as a plaintiff.

overseas detention facilities where they are placed beyond the reach of the law and subjected to torture and other forms of cruel, inhumane, or degrading treatment.”<sup>210</sup>

The complaint details that,

“Among other services provided Jeppesen prepared pre-departure flight planning services, including itinerary, route weather, and fuel plans for both aircraft involved in their renditions; procured necessary landing and overflight permits for all legs of the rendition flights; and through local agents., arranged fuel and ground handling for the aircraft; **filed .flight plans with national and inter-governmental air traffic control authorities**; paid passenger fees for the crew; and made arrangements to secure the safety of the aircraft and crew on the ground.”<sup>211</sup>

The suit against Jeppesen was dismissed by the Federal District Court in California in early 2008, and the plaintiffs are now appealing to the 9<sup>th</sup> Circuit..

As well as providing essential trip planning services to the CIA, evidence has recently come to light that Jeppesen also worked with the Polish aviation authorities to deliberately conceal evidence that rendition planes had visited sites associated with US prisons in Poland.<sup>212</sup>

Jepesens doctored flight logs have resulting in deliberately falsified and incoherent flight information. To file such records implicates various aviation laws, and also raises the spectre of additional rendition flights that are currently unknown.

According to the Council of Europe:

“In the majority of cases these CIA flights were **deliberately disguised so that their actual movements would not be tracked or recorded** – either “live” or after the fact – by the supranational air safety agency Eurocontrol. The system of cover-up entailed several different steps involving both American and Polish collaborators.

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<sup>210</sup> 1.1.3 Binyam Mohamed, Abou Elkassim Britel and Ahmed Agiza v Jeppesen Dataplan, inc. In the United States District Court for the District of Northern California Civil Action No. C 07 2798, at para 2.

<sup>211</sup> 1.1.1 Binyam Mohamed, Abou Elkassim Britel and Ahmed Agiza v Jeppesen Dataplan, inc. In the United States District Court for the District of Northern California Civil Action No. C 07 2798, at para 10.

<sup>212</sup> The Council of Europe report of July 2007 contained details of a systematic and deliberate cover-up by Jeppesen and the Polish aviation authorities, where they worked together to file false flight plans to detract attention from the fact that the planes were regularly visiting these secret prison sites in Poland: Council of Europe Parliamentary Assembly Committee on Legal Affairs and Human Rights Secret detentions and illegal transfers of detainees involving Council of Europe member states: Second report AS/Jur (2007) 36 7 June 2007; ajdoc36 2007; paras 184 - 196

The aviation services provider customarily used by the CIA,<sup>213</sup> **Jeppesen International Trip Planning**,<sup>214</sup> filed multiple “dummy” flight plans for many of these flights. The “dummy” plans filed by Jeppesen – specifically, for the N379P aircraft – often featured an airport of departure (ADEP) and / or an airport of destination (ADES) that the aircraft never actually intended to visit. If Poland was mentioned at all in these plans, it was usually only by mention of Warsaw as an alternate, or back-up airport, on a route involving Prague or Budapest, for example. Thus the eventual flight paths for N379P registered in Eurocontrol’s records were inaccurate and often incoherent, bearing little relation to the actual routes flown and almost never mentioning the name of the Polish airport where the aircraft actually landed – Szymany...

**The Polish Air Navigation Services Agency** (*Polska Agencja Żeglugi Powietrznej*), commonly known as PANSA, also played a crucial role in this systematic cover-up...<sup>215</sup>

Moreover, in certain instances PANSA took on the **responsibility of filing the onward flight plan for the next leg of the circuit after Szymany**. We know that PANSA filed such flight plans in instances where Szymany had been omitted completely from the original Jeppesen flight plans, and where the aircraft was required to fly onwards from Szymany to a destination outside Poland.”

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<sup>213</sup> Jeppesen International Trip Planning is the travel service of Jeppesen Dataplan, an aviation services provider based in San Jose, California and a subsidiary of Boeing, the world’s largest aerospace company. On 30 May 2007, the ACLU announced a lawsuit against Jeppesen Dataplan for its involvement in the renditions of three individuals: Ahmed Agiza, Binyam Mohamed and El-Kassim Britel. See American Civil Liberties Union, “ACLU Sues Boeing Subsidiary for Participation in CIA Torture and Kidnapping,” 30 May 2007, available at <http://www.aclu.org/safefree/torture/29920prs20070530.html>. For the first revelations about Jeppesen’s involvement in CIA detainee transfers, including the rendition of Khaled El-Masri, see Jane Mayer, “Outsourcing: The CIA’s Travel Agent”, in *The New Yorker*, 30.10.2006, available at [http://www.newyorker.com/archive/2006/10/30/061030ta\\_talk\\_mayer](http://www.newyorker.com/archive/2006/10/30/061030ta_talk_mayer). The Managing Director of Jeppesen is quoted in the article as having said: “*We do all the extraordinary rendition flights – you know, the torture flights. Let’s face it, some of these flights do end up that way.*”

<sup>214</sup> Communications, notably flight plans, filed by Jeppesen International Trip Planning are identified in the AFTN system by the use of the company’s “originator address,” which is KSFOXLDI.

<sup>215</sup> Council of Europe Parliamentary Assembly Committee on Legal Affairs and Human Rights: Secret detentions and illegal transfers of detainees involving Council of Europe member states: Second report Rapporteur: Mr Dick Marty, Switzerland, ALDE; 7 June 2007; paras 184 - 187 ajdoc36 2007

## APPENDIX 6

### AEROCONTRACTORS

Aero Contractors Ltd. is a private charter company based in [Smithfield, North Carolina](#), one of a number of “shell” front-companies that are said to provide discreet air transport services for the [Central Intelligence Agency](#).<sup>216</sup> The company has 26 planes and 79 employees and operates from the tiny [Johnston County Airport](#).<sup>217</sup>

On May 31, 2005, the [New York Times](#) reported that the company was heavily involved in [extraordinary rendition](#):

“While posing as a private charter outfit - "aircraft rental with pilot" is the listing in Dun and Bradstreet - Aero Contractors is in fact a major domestic hub of the Central Intelligence Agency's secret air service. The company was founded in 1979 by a legendary C.I.A. officer and chief pilot for Air America, the agency's Vietnam-era air company, and it appears to be controlled by the agency, according to former employees.”<sup>218</sup>

Three of the pilots implicated in the rendition of Binyam Mohamed and Khaled El-Masri are reported by the LA Times to be employees of Aerocontractors, The company maintains a steadfast silence on the subject. According to the New York Times:

“C.I.A. spokeswoman declined to comment for this article. Representatives of Aero Contractors, Tepper Aviation and Pegasus Technologies, which operate the agency planes, said they could not discuss their clients' identities. "We've been doing business with the

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<sup>216</sup> See Scott Shane, Stephen Grey and Margot Williams, [“C.I.A. Expanding Terror Battle Under Guise of Charter Flights,”](#) 31 May 2005, New York Times:

“Behind a surprisingly thin cover of rural hideaways, front companies and shell corporations that share officers who appear to exist only on paper, the C.I.A. has rapidly expanded its air operations since 2001 as it has pursued and questioned terrorism suspects around the world.

An analysis of thousands of flight records, aircraft registrations and corporate documents, as well as interviews with former C.I.A. officers and pilots, show that the agency owns at least 26 planes, 10 of them purchased since 2001. The agency has concealed its ownership behind a web of seven shell corporations that appear to have no employees and no function apart from owning the aircraft.

The planes, regularly supplemented by private charters, are operated by real companies controlled by or tied to the agency, including Aero Contractors and two Florida companies, Pegasus Technologies and Tepper Aviation.”

<sup>217</sup> Scott Shane, Stephen Grey and Margot Williams, [“C.I.A. Expanding Terror Battle Under Guise of Charter Flights,”](#) 31 May 2005, New York Times

<sup>218</sup> Scott Shane, Stephen Grey and Margot Williams, [“C.I.A. Expanding Terror Battle Under Guise of Charter Flights,”](#) 31 May 2005, New York Times



government for a long time, and one of the reasons is, we don't talk about it," said Robert W. Blowers, Aero's assistant manager."<sup>219</sup>

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<sup>219</sup> Scott Shane, Stephen Grey and Margot Williams, "[C.I.A. Expanding Terror Battle Under Guise of Charter Flights](#)," 31 May 2005, New York Times

## APPENDIX 7

### Premier Executive Transport Services

**Premier Executive Transport Services** is an airline listed as Foreign Corporation in the [Commonwealth of Massachusetts](#). It is widely believed to be a front company for the [Central Intelligence Agency](#).<sup>220</sup> According to investigative journalists the company does not have any offices or premises, and searches of public records for identifying information about the company's officers have yielded only post office boxes in Virginia, Maryland and Washington DC.<sup>221</sup>

Premier Executive Transport Services has apparently owned two planes, both with permits to land at U.S. military bases<sup>222</sup> a [Gulfstream V](#) with the tail number [N44982](#) (formerly N379P and N8068V), and a [Boeing 737](#) with the tail number [N313P](#) (now N4476S and owned by [Keeler & Tate Management](#)).

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<sup>220</sup> Grey, S. (2006). *Ghost Plane: The True Story of the CIA Torture Program*. St. Martin's Press. [ISBN 0-31-236023-1](#) ; Paglen, T. and Thompson, A.C. (2006). *Torture Taxi: On the Trail of the CIA's Rendition Flights*. Melville House Publishing. [ISBN 1-93-363309-3](#)

<sup>221</sup> Stockman, F. "Terror suspects' torture claims have Mass. link" *Boston Globe*, 29 Nov 2004 [http://www.boston.com/news/world/articles/2004/11/29/terror\\_suspects\\_torture\\_claims\\_have\\_mass\\_link?pg=full](http://www.boston.com/news/world/articles/2004/11/29/terror_suspects_torture_claims_have_mass_link?pg=full) ; "C.I.A. Expanding Terror Battle Under Guise of Charter Flights", *New York Times*, 31 May 2005

<sup>222</sup> Whitlock, C. "A Secret Deportation Of Terror Suspects", *Washington Post*, 25 July 2004 <http://www.washingtonpost.com/wp-dyn/articles/A11976-2004Jul24.html>