



April 8, 2009

Leon Panetta
Director
Central Intelligence Agency
Washington D.C. 20505

Dear Director Panetta,

I write to request information relating to the whereabouts of Mustafa Setmariam Nassar, a Spanish citizen of Syrian descent. We have reason to believe that the U.S. government was involved in forcibly disappearing Mr. Nassar in 2005. Mr. Nassar's wife, Helena Moreno Cruz, who has endured enormous suffering as a consequence of his disappearance, is represented by attorneys at the American Civil Liberties Union.

According to credible reports, Mr. Nassar was abducted in Pakistan in 2005 and forcibly disappeared by agents of the United States government acting in collaboration with Pakistani government agents. These reports suggest that Mr. Nassar was the victim of the former administration's rendition, detention and interrogation program. Especially in light of President Obama's recent directive committing to "an unprecedented level of openness in Government," and his Executive Order renouncing the practice commonly known as "extraordinary rendition," we ask that you disclose Mr. Nassar's current whereabouts and provide an explanation of how he got there.¹

The United States government's interest in Mr. Nassar is no secret. The former administration pursued him at least since November 2004, when it offered a \$5 million reward for information relating to his capture as part of its "Rewards for Justice" program. In January 2005, months before Mr. Nassar's reported capture in Pakistan, the U.S. Embassy in Pakistan reiterated this offer by posting a notice for a \$5 million reward in a prominent Pakistani newspaper. The website of the U.S. National Counterterrorism Center confirms that Mr. Nassar was captured in Pakistan in November 2005.²

Around the time of his reported capture, the United States Government removed Mr. Nassar's name from the U.S. government's "Rewards for Justice"

¹ See Memorandum for the Heads of Executive Departments and Agencies: Transparency and Open Government, 74 Fed. Reg. 4,685 (Jan. 21 2009); Ensuring Lawful Interrogations, Exec. Order No. 13,491, 74 Fed. Reg. 4,893, 4,895 (Jan. 22, 2009).

² The National Counterterrorism Center, Counterterrorism Calendar 2009, Captured or Killed as of December 2008, www.nctc.gov/site/profiles/capture.html (last visited Feb. 18, 2009).

list, and withdrew the \$5 million reward for information leading to his arrest. It also removed his name from the FBI's "most wanted" list. According to published reports, Mr. Nassar was held for some time at the U.S.-run air and naval base in Diego Garcia, an island in the Indian Ocean.

The circumstances of Mr. Nassar's abduction and disappearance are consistent with the now well-known Bush administration practices of abducting, forcibly disappearing, and secretly detaining individuals suspected of terrorism-related activity. These practices violate well-established U.S. domestic and international law, including the absolute prohibition on forced disappearance.³

Notably, President Obama's recent Executive order sets forth his commitment to end the practices to which Mr. Nassar was apparently subjected. Specifically, that Order commits the Executive to ensuring that "the practices of transferring individuals to other nations . . . comply with the domestic laws, international obligations, and policies of the United States and do not result in the transfer of individuals to other nations to face torture or otherwise for the purpose, or with the effect, of undermining or circumventing the commitments or obligations of the United States to ensure the humane treatment of individuals in its custody or control."⁴ Consistent with this position, in your own recent testimony before Congress, you stated that "under the executive order issued by the President . . . extraordinary rendition, where we send someone for the purposes of torture or for actions by another country that violate our human values . . . has been forbidden."⁵ You also stated that "we ought [not] to use renditions for the purpose of sending people to black sites [while] not providing the kind of oversight that . . . is necessary."⁶

Ms. Cruz and her four young children have not heard from Mr. Nassar since his abduction and forcible disappearance in 2005. As you might appreciate, his continued disappearance is causing Ms. Cruz and her young family enormous suffering. Simply knowing where he is now and being able to communicate with him would go a long way towards alleviating their trauma.

³ See, e.g. International Convention for the Protection of All Persons from Enforced Disappearance art. 1, *opened for signature* Feb. 6, 2007, U.N. Doc. A/61/488, G.A. Res. A/61/177 ("No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification for enforced disappearance."); Declaration on the Protection of All Persons from Enforced Disappearance art. 1, Dec. 18, 1992, G.A. Res. 47/133, 47 U.N. GAOR Supp. (No. 49) at 207, U.N. Doc. A/47/49 ("Any act of enforced disappearance places the persons subjected thereto outside the protection of the law and inflicts severe suffering on them and their families. It constitutes a violation of the rules of international law . . .").

⁴ Ensuring Lawful Interrogations, Exec. Order No. 13,491, §5(e), 74 Fed. Reg. 4,893, 4,895 (Jan. 22, 2009).

⁵ *Hearing On The Nomination of Leon Panetta To Be Director of the CIA Before the S. Select Intelligence Comm.*, 111th Cong. (2009) (statement of Leon Panetta), CQ Transcriptions, 2009 WL 271881.

⁶ *Id.*

Leon Panetta
April 8, 2009
Page 3

In light of the Obama administration's stated positions, and the trauma that Mr. Nassar's family continues to endure to this day, we request that you immediately disclose Mr. Nassar's current whereabouts and provide an explanation of how he got there. I would be glad to meet with you in person to discuss these issues.

Sincerely,

A handwritten signature in black ink, appearing to read 'Anthony D. Romero'. The signature is stylized with a large, sweeping initial 'A'.

Anthony D. Romero

AMERICAN CIVIL
LIBERTIES UNION

cc: Hillary R. Clinton, United States Secretary of State
Robert M. Gates, United States Secretary of Defense
Eric H. Holder, United States Attorney General