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October 22, 2012

VIA CERTIFIED MAIL

Hillary Clinton
Secretary of State
Department of State
2201 C Street, NW
Washington, DC 20520

Dear Secretary Clinton:

I am writing to you on behalf of Sabrina De Sousa ("Ms. De Sousa"), a former Foreign Service Officer for the Department of State ("State"). As you are likely aware, Ms. De Sousa, as well as 22 other current and former U.S. Government officials, has been tried and convicted *in absentia* in Italy for her alleged involvement in the alleged extraordinary rendition in 2003 of terrorist suspect, Usama Mustafa Hassan Nasr ("Abu Omar"). That conviction was upheld by Italy's highest criminal court on September 19, 2012. There remains an outstanding EUROPOL warrant for Ms. De Sousa's arrest and she risks arrest and imprisonment by merely leaving the territorial boundaries of the United States.

To date, neither State in particular nor the U.S. Government as a whole has voluntarily taken any action on behalf of Ms. De Sousa. She was barred from speaking with her Italian Government-appointed defense counsel and was not provided with private defense counsel of her own until after our office initiated litigation seeking, among other things, to compel the Department of Justice ("DOJ") to provide funding to hire such private counsel.¹ Despite the fact that during Ms. De Sousa's tour of duties in Italy – first in Rome from 1998 until 2001 and then in Milan from 2001 to 2004 – she held valid Commissions stipulating that she held immunity protections as a diplomatic and consular official serving on behalf of the U.S. Government, no action has ever been taken by State to invoke (or conversely waive) immunity on Ms. De Sousa's behalf with respect to the Italian criminal or civil proceedings. She has, in effect, been abandoned by the very agency and Government she dutifully served for over a decade.

¹ By the time the DOJ did in fact provide that funding, the Italian criminal proceedings had been ongoing for three years and were nearing their final stages.

Equally as troubling throughout the course of this entire international saga has been the apparent disinterest on the part of the U.S. Government to investigate allegations that Abu Omar was allegedly tortured by Egyptian Government officials (with or without the assistance or involvement of U.S. Government personnel) after allegedly having been transferred to Egypt by the U.S. Government by way of an alleged extraordinary rendition. See <http://tinyurl.com/l9yelg>. Under 18 U.S.C. § 113C, the codification of the U.S.'s ratification of and compliance with the U.N. Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ("CAT"), any U.S. national who commits an act of torture outside of the United States is subject to criminal penalties of up to 20 years in prison. See 18 U.S.C. § 2340A(a).

Notwithstanding this self-imposed obligation to prosecute such criminal offenses, there is no indication that the U.S. Government has conducted any semblance of an inquiry – classified or not – into whether U.S. nationals were involved in the alleged torture of Abu Omar. This lack of action is particularly disconcerting given the presence of noted human rights advocates on your staff, such as Michael H. Posner, Assistant Secretary of State for the Bureau of Democracy, Human Rights and Labor, who previously served as President of Human Rights First and who presumably was selected to serve at least in part due to his past human rights work. When combined with the Justice Department's recent discretionary determination to decline to prosecute any of the deaths that allegedly resulted from the use of "enhanced interrogation techniques" in Afghanistan in 2002 and Iraq in 2003, see <http://tinyurl.com/94bn6jd>, it feeds the narrative overseas that the U.S. Government will not hold accountable its own personnel who violate criminal prohibitions on torture. I would respectfully submit that this course of action, particularly your agency's declination to conduct any inquiry, puts U.S. Government officials serving overseas – including those with valid diplomatic paperwork – at increased risk of being subjected to politicized criminal proceedings in foreign courts for actions that they committed in the course of their official duties, as well as being at greater risk of violent acts of reprisal.

I would further ask that you take into consideration the greater moral imperative at stake here. Although the U.S. did not codify it into law and thereby is not constrained by it from a purely legal standpoint, Article 3 of the CAT does prohibit the rendition of an individual to a third party country even when there is a basis to believe that individual will be subjected to torture as defined by the CAT. It is certainly within State's discretionary authority to adhere to the spirit of that provision – even if not bound to do so by law – and conduct an investigation into the circumstances in which the alleged extraordinary rendition of Abu Omar allegedly took place in order to determine what role (if any) U.S. officials allegedly played in effectuating the alleged rendition. The investigation would not necessarily be designed to rectify any alleged harm incurred by Abu Omar but rather to provide a means by which to clear the name of officials like Ms. De Sousa – as well as his former colleagues – who have unwittingly been caught up in the international fallout through no fault of their own for something (at least in the case of Ms. De Sousa) with which she was not involved. Ms. De Sousa would of course, and as she has always indicated, be willing to cooperate with any such inquiry.

Madam Secretary, in light of your own well-documented history of working to advance the cause of human rights across the globe, I respectfully request that you authorize an inquiry into this matter at your earliest convenience. Indeed, I would humbly refer you to the following comments made by U.S. District Judge Beryl A. Howell, who presided over our litigation on behalf of Ms. De Sousa, in her January 5, 2012, ruling:

“The message that this scenario sends to civilian government employees serving this country on tours of duty abroad is a *potentially demoralizing one*.”

If this issue remains ignored, State is exposing our diplomats to overzealous and politicized prosecutions in foreign courts for actions that (if true) were properly authorized by the U.S. Government. At a time when this country continues to mourn the loss of Ambassador Chris Stevens, I would hope you would agree with me that exposing our diplomats to further risks is something that should be avoided at all costs.

I remain available to discuss this matter with your office at your (or your appropriate designee's) earliest convenience.

Highest regards,

Bradley P. Moss

CC: Sabrina De Sousa

JONES DAY

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June 12, 2008

Admiral J. Michael McConnell
Director of National Intelligence
Office of the Director of National Intelligence
Washington, D.C. 20511

Re: Italy Criminal Proceedings Against CIA and DOD Personnel

Dear Admiral McConnell:

I write to ask that you review the CIA's handling of the Italian criminal trial against our client Sabrina De Sousa, a CIA employee, and others indicted (and currently being tried) in connection with the Abu Omar operation. As you may know, despite the very possible criminal conviction against our client, the CIA has neither provided her with representation nor permitted her to contact Court-appointed Italian counsel. Indeed, after rosy assurances that the trial would not proceed have proven false, the Agency has taken to keeping information from my client, and has effectively abandoned her to suffer the potential harms of a criminal conviction, including a worldwide arrest warrant that would drastically reduce her ability to travel and seek future employment, pose a danger to her family's and her personal safety, and expose her to an accompanying civil judgment.

The attached letter to General Hayden sets out the facts and Ms. De Sousa's concerns in detail. The Agency has ignored our request for a written response to this letter, and instead has offered to meet with my client and me at the CIA to explain facts of which we are allegedly unaware. However, my request to clear a replacement for my colleague who is on maternity leave has been pending for nearly a month despite several status requests. Indeed, given the expeditious clearance of prior lawyers, we now wonder whether the offer to meet was intended to serve any genuine purpose or was rather designed to convey a facade of reasonableness. Given the vastness of the CIA's resources, this hardly seems an effective or fair response to the highly unfair situation in which my client finds herself through no fault of her own.

Moreover, we have recently learned that the single DOD defendant in this matter, Lt. Colonel Joseph L. Romano, is now being represented in the Italian proceedings by retained Italian counsel. We presume that the U.S. government approved and is paying for this counsel. If that is the case, it is unconscionable that the U.S. government is providing for Lt. Colonel Romano's defense while completely ignoring Ms. De Sousa's equivalent needs. While we certainly applaud the provision of a fully adequate defense for Lt. Colonel Romano, a distinguished career military officer, we do not see why Ms. De Sousa, as a hard-working career intelligence officer, should be considered less deserving of governmental assistance.

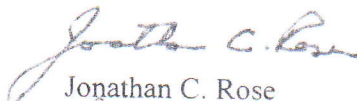
JONES DAY

Admiral J. Michael McConnell
June 12, 2008
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As Director of National Intelligence, and head of the intelligence community, you are certainly aware of your responsibility for overseeing vital matters concerning national intelligence. See Intelligence Reform and Terrorism Prevention Act of 2004, Pub. L. No. 108-458, § 102, 118 Stat. 3638, 3644 (2004). This oversight responsibility includes crucial aspects of the instant situation, including "coordination [with] the intelligence [and] security services of foreign governments," *id.* § 102A(k), "[c]lassification of information," *id.* § 102A(i)(2)(A), policies and procedures for tradecraft, *id.* 102A(h)(1)(A), and the management and retention of intelligence community personnel. *Id.* § 102A(f)(3)(A). The inequity of the treatment of Ms. De Sousa, in contrast to that of others involved in the situation, will also likely serve to undermine your office's efforts to "ensure that the personnel of the intelligence community are sufficiently diverse . . . through the recruitment of women, minorities, and individuals with diverse ethnic, cultural, and linguistic backgrounds." *Id.* § 102A (f)(3)(A)(iv). Failure to be sensitive to the special circumstances of those who possess skills and backgrounds critically needed by our intelligence agencies can only impair our ability to recruit them and thereby cripple our nation's intelligence-gathering efforts.

We request your urgent attention to this matter and look forward to hearing from you.

Very truly yours,



Jonathan C. Rose

cc: Dr. Donald M. Kerr, Principal Deputy Director of National Intelligence
David R. Shedd, Deputy Director of National Intelligence for Policy, Plans, and Requirements
General Michael V. Hayden, CIA
John McPherson, Office of General Counsel, CIA
Hon. Silvestre Reyes, Chairman, House Permanent Select Committee on Intelligence
Hon. Peter Hoekstra, Ranking Member, House Permanent Select Committee on Intelligence
Hon. John D. Rockefeller IV, Chairman, U.S. Senate Select Committee on Intelligence
Hon. Christopher S. Bond, Vice Chairman, U.S. Senate Select Committee on Intelligence

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JP327448:sdc

October 21, 2008

John B. Bellinger III
Legal Adviser to the Secretary of State
U.S. State Department
Washington, D.C. 20025

Re: Urgent case of denial of diplomatic immunity to Sabrina De Sousa,
former Consul, Consulate General of Milan, now in trial in Milan for
offense of aggravated kidnapping

Dear Mr. Bellinger:

I am writing to follow up on the attached letter sent to Secretary Rice and copied to your attention on May 8, 2008. The letter remains unanswered as of this date. As you may recall, the letter concerns the criminal trial in Italy of my client, Sabrina De Sousa, and more than twenty other U.S. nationals in connection with the alleged kidnapping of Osama Mustafa Hasan Nasr, known as Abu Omar, in February 2003. Since my previous letter, the trial has progressed steadily toward conviction in early 2009. I am sure that you are aware that on October 1, 2008, Secretary Rice was called to testify at the trial based upon information provided by former SISMI (now AISE) director Nicolo Pollari that Secretary Rice sanctioned the Abu Omar kidnapping.

As noted in my May 8, 2008 letter, at the time of the events that are the subject of the trial, my client was a listed Foreign Service Officer of the Department of State and was accredited to Italy. On the basis of that status, my client is entitled to the defense of diplomatic immunity under Articles 31 and 39 of the Vienna Convention on Diplomatic Relations. We have been informed by the Central Intelligence Agency that a decision has been made by various components of the U.S. government not to invoke immunity. We also have been informed that the Agency believes – based upon legal advice – that a claim of diplomatic immunity will not succeed. The Agency, however, has refused to inform us of the basis for that advice. Portions of the reasoning divulged to my client, such as an indication by Agency counsel that intelligence activities are not covered by diplomatic immunity, go completely against the core tenets of diplomatic immunity as well as the understandings of intelligence employees posted abroad in State Department positions.

We are greatly concerned that the Agency's position is based upon flawed or incomplete reasoning, and that the Agency, without proper vetting or oversight, has implemented

Mr. John B. Bellinger III
October 21, 2008
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JONES DAY

far-reaching changes to existing policies for invocation of diplomatic immunity. We also have reason to believe that the Agency would prefer to see a decision on this matter postponed until a new administration in the hope that those responsible for what have proven to be a series of seriously flawed recommendations can escape responsibility. For that reason, we believe that some members of the interagency task force charged with this matter may have been improperly and unduly pressured to provide a façade and rationale for the CIA's preferred method of handling the Milan trial even though it puts several of its agents in needless criminal jeopardy.

Given your role as Legal Adviser to the Secretary, and the Department of State's responsibility for invoking immunity, we write to seek your office's explanation for the decision not to invoke immunity in this matter. Your office, of course, carries primary responsibility for invocation of diplomatic immunity. Your answer is of great import not only to my client but also to other members of the intelligence community who undertake missions abroad under the reasonable expectation that they will be entitled to the protections of diplomatic immunity.

We look forward to your response. Should you prefer to meet to discuss this issue, please contact me at the telephone number above.

Very truly yours,



Jonathan C. Rose

Enclosure

cc: John Rizzo, Acting General Counsel, CIA
Hon. Silvestre Reyes, Chairman, House Permanent Select Committee on Intelligence
Hon. Peter Hoekstra, Ranking Member, House Permanent Select Committee on Intelligence
Hon. John D. Rockefeller IV, Chairman, U.S. Senate Select Committee on Intelligence
Hon. Christopher S. Bond, Vice Chairman, U.S. Senate Select Committee on Intelligence



human rights *first*

David Grannis
Majority Staff Director, Select Committee on Intelligence
Hart Senate Office Building, SH-211
Washington, DC 20510-6475

July 23, 2010

Dear David,

I write to call your attention to a case of “extraordinary rendition” and torture that has not been resolved or even investigated by the United States, and that we believe merits attention and further investigation.

Former U.S. government employee Sabrina de Sousa, a U.S. State Department official based in Milan, Italy until 2004, has informed us that she possesses classified information about the 2003 abduction in Milan of Osama Mustafa Hasan Nasr, more commonly known as Abu Omar. She claims that this information would reveal wrongdoing and potential criminal conduct by U.S. officials involved in planning his kidnapping and rendition to Egypt. Although we do not have clearance to receive this classified information, there are sufficient facts in the public record about the case of Abu Omar, his rendition by the CIA and his alleged torture in Egypt, that lead us to believe that Ms. DeSousa is in a position to reveal important facts about the rendition program as practiced by the Bush administration, and how rendition came to be used not simply to send suspects to third countries for judicial process, but as a means of subjecting them to interrogation under torture. For additional information about the case of Abu Omar and Ms. de Sousa’s connection to the case, please see the below summary drawn from publicly available reports.

Ms. DeSousa claims that she can provide appropriately cleared staff of the Senate Select Committee on Intelligence with classified information that she learned after the rendition occurred and which does not appear to have been reported previously. This information concerns how the rendition of Abu Omar was planned, authorized, directed and carried out, including information about the role of particular individuals involved, and what they knew about the situation prior to the rendition.

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As you may be aware, Ms. DeSousa has filed a civil suit against the Department of State to protect and defend her from prosecution by a foreign court while serving as a representative of the US government abroad. We are not seeking any assistance or involvement from the Committee with the lawsuit. We are only requesting that the members hear the information that Ms. DeSousa has to disclose.

Human Rights First urges you to meet with Ms. Sousa to discuss this matter, to hear her testimony in a classified hearing, and to investigate further. We can provide Ms. DeSousa's contact information if you wish to contact her directly or through her attorney.

Sincerely,

Devon Chaffee

Advocacy Counsel
Human Rights First

The Case of Osama Mustafa Hasan Nasr (Abu Omar)

According to publicly-available news reports, on February 17, 2003¹, 41-year-old Abu Omar, a prominent cleric of Egyptian descent living in Milan, Italy, was abducted, beaten and taken to an American air base north of Venice. Omar had been under surveillance by Italian intelligence services for months, and his abrupt abduction, apparently by the CIA, interrupted that ongoing investigation.² After refusing to answer several questions by English-speaking interrogators at the U.S. air base, Omar says he was beaten again, then flown to Cairo. A senior Egyptian official offered to return him to Milan if Omar agreed to help the Egyptians authorities in Milan. Omar refused and was imprisoned.

According to news accounts, CIA officers assisted in his interrogation in Egypt, where Omar claims he was tortured. Omar claims he was beaten, raped, sleep-deprived, exposed to extreme hot and cold, stripped naked and subjected to electric shocks.³ After fourteen months in prison, he was released without charge. Egyptian authorities subsequently re-arrested him for allegedly violating the conditions of his release by talking about his treatment in prison. He was released again in 2007 after an Egyptian court ruled that the charges against him were unfounded.⁴

¹ Matthew Cole, Blowback, *GQ*, March 2007.

² John Crewdson, *Chicago Tribune*, January 8, 2007.

³ Peter Bergen, Exclusive: I Was Kidnapped By the CIA, *Mother Jones*, March/April 2008.

⁴ BBC News, Egypt Releases 'Rendition' Cleric, February 12, 2007.

An Italian prosecutor later tracked the abduction to a group of U.S. agents, who he eventually prosecuted. Jeff Castelli, the alleged CIA station chief in Italy, was acquitted after the U.S. government invoked diplomatic immunity on his behalf. The U.S. did not invoke immunity for the CIA's Milan chief, however, or for 23 other officers, including Ms. DeSousa. They were all convicted in absentia. (Ms. DeSousa has filed a civil suit against the Department of State and several former CIA officials for their refusal to invoke diplomatic immunity on her behalf. The case remains pending.) In November of last year each was sentenced to five years in prison.

In the United States, meanwhile, no one has ever been held accountable for the abduction and rendering of Abu Omar to Egypt to be interrogated under torture. Despite Omar's statements about his own treatment, the Italians' assertion that an ongoing investigation had been disrupted, and a range of corroborating evidence, the United States has not conducted an independent investigation into the case. Moreover, Omar was seized in a foreign country and sent to be interrogated in a third country that is known, according to the U.S. State Department, to torture its prisoners.

Under the 1984 U.N. Convention Against Torture, the United States is obligated to prevent and punish all acts of torture, cruel, inhuman or degrading treatment when "such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity." All signatories to the Convention, which includes the United States, also "have an obligation not to expel, return or extradite a person to another State where he or she would be in danger of being subjected to torture."

The rendition of Abu Omar by U.S. agents to Egypt appears to directly violate these obligations. However, there has been no official investigation in the United States of why Abu Omar was rendered to Egypt, and in particular why the rendition took place despite an ongoing criminal investigation of his conduct by a NATO ally which was well-equipped to prosecute him, if appropriate.

As you know, this is not the only known case of U.S. extraordinary rendition. At least 53 cases of extraordinary rendition have been documented since September 11, 2001; only one of those victims said he had not been tortured. As of Spring 2008, 19 of the victims had apparently disappeared.⁵

⁵ Peter Bergen, *Mother Jones*, March/April 2008.

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November 4, 2008

Ronald L. Burgess, Jr.
Lieutenant General, U.S.A.
Office of the Director of National Intelligence
Director of the Intelligence Staff
Washington, DC 20511

Dear General Burgess,

We very much appreciated the response to our letters on behalf of the Director of the National Intelligence (DNI). Indeed, we have been highly remiss in not including the DNI on all correspondence in connection with the ongoing trial in Milan, Italy, where my client has been accused of aggravated kidnapping of one Abu Umar.

My client will attach copies of all previous correspondence on the matter, in an e-mail to you. The questions posed in those letters, for which we are still awaiting responses, are based on information provided to my client at meetings she attended in the CIA, as well as the two meetings that the CIA has had with me over a period of thirty months.

While there are numerous outstanding unanswered questions, the one that is of greatest and most urgent concern is the one concerning diplomatic immunity. (Attachment B).

According to Idens A and B, *"Intelligence activities are not covered under Diplomatic Immunity."* To make sure that we have fully comprehended the statements made to us, we are moved to ask the following questions:

Does the DNI propose to make the disclosure of this startling information to those thousands of men and women who work in 16 Intelligence Agencies under the DNI and who all believe that they have those protections when executing sanctioned intelligence activities?

Is the DNI aware of any plans by the Director of the CIA, General Michael V. Hayden, to inform his employees who execute sanctioned Intelligence operations overseas on a daily basis that these activities are not protected by diplomatic immunity?

Is the DNI aware of any plans by the Secretary of Defense, Mr. Robert Gates, to inform his troops that supporting Intelligence activities is not covered by the Status of Forces Agreement (SOFA)?

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General Ronald L. Burgess
November 4, 2008
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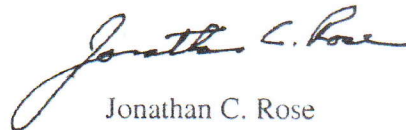
Does the DNI, when seeking to hire recruits from among the ethnic communities, such as my client's, plan to advise those officers that they risk being prohibited from seeing immediate family "indefinitely" should a sanctioned Intelligence activity go wrong?

We are pleased that the DNI believes that this matter requires committed, sensitive and sustained attention. We would therefore appreciate your continuing input into the hitherto undefined "options" that the CIA claims it is exploring to bring this matter to a close. Work on this issue has been going on since December 2004 – and the CIA's undefined "options" as noted in attached letters remains incomplete. Further I was informed during my meeting with John McPherson on 20 July that the trial is expected to continue and that those indicted will likely be convicted.

My client joined the Agency as do thousands of men and women to pursue a career as an Intelligence officer and serve her country – not for the purposes of creating a criminal record abroad for following orders that were sanctioned by the leadership of the CIA, NSC and the President of the U.S.A.

I sincerely thank you for whatever offer of assistance you may appropriately make to us in this matter.

Sincerely,



Jonathan C. Rose

cc: General Michael V. Hayden, Director, CIA
The Honorable Dr. Condoleezza Rice, Secretary of State
The Honorable Michael B. Mukasey, Attorney General
Hon. Silvestre Reyes, Chairman, House Permanent Select Committee on Intelligence
Hon. Peter Hoekstra, Ranking Member, House Permanent Select
Committee on Intelligence
Hon. John D. Rockefeller IV, Chairman, U.S. Senate Select Committee on Intelligence
Hon. Christopher S. Bond, Vice Chairman, U.S. Senate Select Committee on Intelligence

General Colin L. Powell, USA (Ret)
909 North Washington Street, Suite 700
Alexandria, Virginia 22314

18 May 2009

Dear General Powell,

I appreciate your taking the time to read my letter. My issue concerns the protections that thousands of our men and women rely upon while assigned to our missions overseas where they execute sanctioned policies. I am one of more than two dozen of these officers now on trial in a country that has long been a NATO ally and a partner in the fight against international terrorism. General Powell, your tenure as Secretary of State and as a combat General is well known and respected; I seek your assistance in bringing this matter to the attention of the President.

The trial in Milan, Italy of 25 Federal Government civilians and a DoD Military Officer relates to the rendition of an alleged terrorist. It is now in its fourth year and continues without resolution due to a noticeable lack of intervention by the United States Government (USG). Also disturbing, is that the USG has not provided those of us on trial with any plausible justification for this decision other than to inform us that we will likely be convicted. This course of action sets a foolish and dangerous precedent - not invoking diplomatic immunity or the Status of Forces Agreement (SOFA) when it is most needed.

For three years I tried every option for resolution available to me both with my employer and in letters to the heads of several Departments and Agencies, as well as Congress and the Senate in both administrations without success. Consequently, I found it necessary to resign my Federal position and file my complaint in US District Court for the District of Columbia.

My colleagues across the Federal Government are aghast that the government in which we have placed our faith and trust has adopted this position of inaction, and we wonder whether the days of declaring diplomatic personnel "persona non grata" will now be replaced by criminal prosecutions. I joined the Foreign Service to serve our country; it has been one of the highest honors I could experience to serve as a representative at our diplomatic missions. While I sought no praise or credit for this service, I certainly did not expect to end up as a criminal in the eyes of the world, while our government stands by silently and asks me to do the same. To those of us whose futures and honor are at stake, it seems that the Government has been merely crossing its fingers, shutting its eyes, and hoping that the problem goes away.

General Powell, I am a naturalized US citizen whose elderly mother lives in India and whose siblings reside outside the United States. With great reluctance, after enduring four years of travel restrictions with no end in sight, I recently resigned my federal position because my employing agency threatened disciplinary action should I travel overseas to visit my family. Forced to choose between my job and my family, I tendered my resignation in February 2009 and went to India for a family emergency finding along the way no hindrance from any foreign entities.

Is that a fair and equitable treatment for service to our country? Choosing between family and career should not be a condition for employment in serving our nation. Why does the Government choose not to invoke the shield of diplomatic immunity when it is most needed by those acting on its behalf? I have lost my good name, my job, my career and my retirement benefits for which I worked many years and now I must start over. The USG recruits officers such as me with language skills and expertise in various cultures, not only to advance our interests overseas but also to engage our enemies. No one said that the conditions for this employment meant choosing between family and a career. Few with familial ties overseas would willingly sign up when the real possibility of never seeing family is needlessly at stake.

On a recent visit to the Headquarters of the Central Intelligence Agency, President Obama promised not to prosecute agency personnel who carried out authorized "enhanced interrogation techniques" since they were following lawful orders. Similarly, the rendition of Abu Omar falls within the former administrations controversial policies and as such the affected officers also deserve the same assurances from the President of the United States.

General Powell, I appreciate any assistance you may be in a position to provide and stand ready to discuss this in greater detail if required.

Sincerely,

Sabrina de Sousa

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May 8, 2008

PRIVILEGED & CONFIDENTIAL

The Honorable Condoleezza Rice
Secretary of State
U.S. State Department
Washington, D.C. 20025

Re: Sabrina De Sousa, Consul General, Milan

Dear Madam Secretary:

You have previously received correspondence requesting your assistance in the case of my client Sabrina De Sousa, a listed Foreign Service Officer of the Department of State who has loyally served the U.S. government for many years. As you are no doubt aware, in July 2006, a Magistrate in Milan, Italy, issued a warrant for the arrest of Ms. De Sousa along with more than twenty other U.S. nationals, alleging their involvement in a conspiracy to kidnap in Milan for delivery to Egyptian authorities one Osama Mustafa Hasan Nasr, known as Abu Omar, a Muslim cleric thought to be a terrorist. The Magistrate formally charged Ms. De Sousa's involvement in an indictment issued in July 2006. Ms. De Sousa's trial in absentia, after a temporary suspension, is now proceeding apace before the Italian court.

Ms. De Sousa last served in Italy from 1998 until 2004, first at the U.S. embassy in Rome until 2001, and then in Milan until January 2004. When the alleged kidnapping took place, Ms. De Sousa was on annual leave with her son away from Milan, a fact for which she has documentary evidence, both in the form of telephone records (undoubtedly also available to the Magistrate) and through credit card bills. Since these events, Ms. De Sousa has been widely and falsely characterized in the European, U.S., and world press as a significant promoter of the alleged operation. According to public sources, the alleged operation was conceived by Jeffrey Castelli, described as the CIA's Rome station chief and Ms. De Sousa's ultimate superior, and over the opposition of Robert Seldon Lady, who is alleged to have been CIA's Milan station chief and Ms. De Sousa's immediate supervisor. Allegedly, Mr. Castelli's advocacy of the operation provoked an internecine bureaucratic battle in which CIA Director George Tenet sided with Mr. Castelli and gained your reluctant approval for a positive recommendation of the operation to the President. Through cell phone records, hotel bills, and other documentary

evidence apparently leaked from the prosecutor's investigation, the press has painted a picture of a lavish, clumsily conducted, and ill-advised operation of which our client was a significant part.

As you may be aware, despite her requests, my client neither has been afforded counsel by the U.S. government in the Italian criminal case nor has she been able to consult with her court-appointed Italian counsel. It is impossible to assess the potential prejudice to Ms. De Sousa of these limitations. Ms. De Sousa's inability to seek the inclusion of particular witnesses at the trial, or to make other pre-trial motions (such as dismissal based upon immunity) are merely two examples. More fundamentally, it is the role of your office to assert any defenses based upon Ms. De Sousa's diplomatic and/or consular immunity. The State Department's failure to raise these defenses in a timely and procedurally required manner will likely seriously jeopardize Ms. De Sousa's defense.

Indeed, Ms. De Sousa has been denied the most basic information regarding the charges against her. The information she has requested on numerous occasions includes:

1. The name of Ms. De Sousa's counsel of record in the Italian case.
2. A copy of the evidence presented to the court that led to Ms. De Sousa's indictment (available as of right to her counsel of record).
3. Information available to the government regarding materials relevant to her case allegedly on Robert Lady's computer, including Susan Czaska's alleged email to him, which is one of the cited grounds for her indictment.
4. Any Memorandum of Understanding between the U.S. government and the Government of Italy affecting the alleged involvement of U.S. government officials in the activities that are the subject of the trial.
5. Any analysis by the U.S. government relating to my client's diplomatic and/or consular immunity under the respective Vienna Conventions.
6. Information regarding a related civil suit apparently brought in Italy by Abu Omar.

These requests for basic information about her case remain outstanding and unanswered. It is unconscionable that Ms. De Sousa has been provided neither assistance with her defense nor the information or ability to defend herself. Already, there is a danger that extremists sympathetic to Abu Omar or his cause will seek retribution against Ms. De Sousa for her alleged involvement in his abduction. The harms of a criminal conviction for that alleged involvement will only exacerbate the personal risks Ms. De Sousa will face, as well as create other burdens, including the possibility of arrest should she travel outside the United States. In addition, such a conviction record would follow her into any potential civilian employment as well as become a subject of devastating publicity to her and her family members abroad. Indeed, her name already has appeared on a "wanted" list of Indian nationals published in an Indian newspaper. We further understand that Abu Omar is also pursuing a civil case against Ms. De Sousa in Italy.

Until this time, U.S. government employees have had a reasonable expectation that those assigned overseas will be defended in foreign proceedings for alleged actions occurring in the line of duty and will not be expected to bear personally the consequences of criminal judgments


Honorable Condoleezza Rice
May 8, 2008
Page 3

JONES DAY

against them. Thus far, the government's response to those injured through no fault of their own by this alleged operation seems akin to leaving the wounded in the field after an armed conflict to fend for themselves. Madam Secretary, we sincerely hope that you will not permit matters to remain in this condition.

We look forward to receiving your response.

Very truly yours,



Jonathan C. Rose

cc: John B. Bellinger III, Legal Adviser to the Secretary of State
Hon. Silvestre Reyes, Chairman, House Permanent Select Committee on Intelligence
Hon. Peter Hoekstra, Ranking Member, House Permanent Select Committee on Intelligence
Hon. John D. Rockefeller IV, Chairman, U.S. Senate Select Committee on Intelligence
Hon. Christopher S. Bond, Vice Chairman, U.S. Senate Select Committee on Intelligence

MARK S. ZAID, P.C.

ATTORNEY-AT-LAW

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SUITE 200

WASHINGTON, DC 20036

TELEPHONE: (202) 454-2809

FACSIMILE: (202) 330-5610

MARK S. ZAID, MANAGING PARTNER (admitted in NY, CT, DC, MD)

E-MAIL: MARK@MARKZAID.COM

BRADLEY P. MOSS, ASSOCIATE (admitted in IL, DC)

E-MAIL: BRAD@MARKZAID.COM

ILANA S. GREENSTEIN, OF COUNSEL (admitted in MD)

E-MAIL: ILANA@MARKZAID.COM

June 18, 2009

VIA FACSIMILE

Margaret P. Grafeld
Department of State
Director, Office of IRM Programs and Services, SA-2
5th Floor
Washington, D.C. 20522-6001

Dear Ms. Grafeld:

Pursuant to the Freedom of Information Act, 5 U.S.C. § 552 et seq., and the Privacy Act, 5 U.S.C. § 552a et seq., I am requesting on behalf of my client, Sabrina De Sousa ("Ms. De Sousa"), any and all records created, received and/or maintained by the Department of State ("DOS") that pertain to Ms. De Sousa's employment with DOS. You may limit the scope of the search to records dated from January 1, 1998 to the date of acceptance of this request.

To help identify information about Ms. De Sousa, I am providing the following required information:

Full Name: Sabrina De Sousa

[REDACTED]

DOB: November 19, 1955

Place of birth: Bombay (Mumbai), India

Citizenship: US (naturalized)

For your information, Ms. De Sousa served as a Foreign Service Officer ("FSO") from 1998 until she resigned on February 13, 2009. During her time as an FSO, Ms. De Sousa served at the U.S. Embassy in Rome, Italy from 1998 to 2001 and at the U.S. Consulate in Milan, Italy from 2001 to 2004.

In July 2006, Italian Prosecutor Armando Spataro issued an arrest warrant for Ms. De Sousa in connection with criminal proceedings in Milan, Italy pertaining to the alleged kidnapping of Hassan Mustafa Osama Nasr ("Abu Omar"). Abu Omar was allegedly kidnapped by U.S. and Italian government officials in Milan, Italy on February 17, 2003. On February 16, 2007, Judge Oscar Magi in Milan, Italy formally indicted Ms. De Sousa, along with twenty-five other U.S.

officials, for the alleged kidnapping of Abu Omar. The criminal proceedings are still ongoing. To date, the DOS has not invoked diplomatic or consular immunity on Ms. De Sousa's behalf with respect to any alleged involvement she had in the alleged kidnapping of Abu Omar.

The definition of "records" should be construed to include, but not be limited to, e-mails, facsimiles, and text messages on government-provided cell phones and blackberries. Furthermore, the scope of the search should not be limited to DOS-originated records and should be construed to include records that are currently in the possession of any U.S. Government contractors for purposes of records management.

If you deny all or any part of this request, please cite each specific exemption that forms the basis of your refusal to release the information and notify me of appeal procedures available under the law. I would request that any records produced in response to this request be provided in electronic (soft-copy) form wherever possible. Acceptable formats are .pdf, .jpg, .gif, .tif.

I have enclosed an executed Authorization and Privacy Waiver form from Ms. De Sousa. Any communications regarding this request should be directed to me as counsel for Ms. De Sousa.

Please note that Privacy Act requests are not subject to search fees. In terms of reproduction costs, Ms. De Sousa is willing to pay up to \$100. Your agency is not authorized to incur reproduction costs exceeding \$100 without first contacting me for approval.

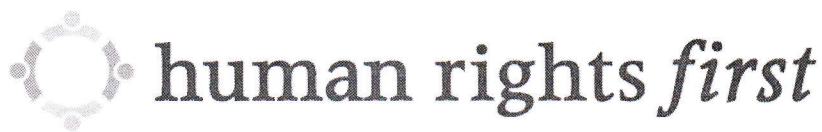
Please respond to this request within 20 working days as provided for by law. Failure to timely comply may result in the initiation of litigation in the U.S. District Court for the District of Columbia.

I can be reached at (202) 907-7945 if any additional information is needed.

Sincerely,

/s/

Bradley P. Moss



John Dickas
Professional Staff Member
Select Committee on Intelligence
Hart Senate Office Building, SH-211
Washington, DC 20510-6475

August 18, 2010

Dear John,

I write to call your attention to a case of “extraordinary rendition” and torture that has not been resolved or even investigated by the United States, and that we believe merits attention and further investigation.

Former U.S. government employee Sabrina de Sousa, a U.S. State Department official based in Milan, Italy until 2004, has informed us that she possesses classified information about the 2003 abduction in Milan of Osama Mustafa Hasan Nasr, more commonly known as Abu Omar. She claims that this information would reveal wrongdoing and potential criminal conduct by U.S. officials involved in planning his kidnapping and rendition to Egypt. Although we do not have clearance to receive this classified information, there are sufficient facts in the public record about the case of Abu Omar, his rendition by the CIA and his alleged torture in Egypt, that lead us to believe that Ms. DeSousa is in a position to reveal important facts about the rendition program as practiced by the Bush administration, and how rendition came to be used not simply to send suspects to third countries for judicial process, but as a means of subjecting them to interrogation under torture. For additional information about the case of Abu Omar and Ms. de Sousa’s connection to the case, please see the below summary drawn from publicly available reports.

Ms. DeSousa claims that she can provide appropriately cleared staff of the Senate Select Committee on Intelligence with classified information that she learned after the rendition occurred and which does not appear to have been reported previously. This information concerns how the rendition of Abu Omar was planned, authorized, directed and carried out, including information about the role of particular individuals involved, and what they knew about the situation prior to the rendition.

HEADQUARTERS
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(1920-2002)

As you may be aware, Ms. DeSousa has filed a civil suit against the Department of State to protect and defend her from prosecution by a foreign court while serving as a representative of the US government abroad. We are not seeking any assistance or involvement from the Committee with the lawsuit. We are only requesting that the members hear the information that Ms. DeSousa has to disclose.

Human Rights First urges you to meet with Ms. Sousa to discuss this matter, to hear her testimony in a classified hearing, and to investigate further. We can provide Ms. DeSousa's contact information if you wish to contact her directly or through her attorney.

Sincerely,

Devon Chaffee

Advocacy Counsel
Human Rights First

The Case of Osama Mustafa Hasan Nasr (Abu Omar)

According to publicly-available news reports, on February 17, 2003¹, 41-year-old Abu Omar, a prominent cleric of Egyptian descent living in Milan, Italy, was abducted, beaten and taken to an American air base north of Venice. Omar had been under surveillance by Italian intelligence services for months, and his abrupt abduction, apparently by the CIA, interrupted that ongoing investigation.² After refusing to answer several questions by English-speaking interrogators at the U.S. air base, Omar says he was beaten again, then flown to Cairo. A senior Egyptian official offered to return him to Milan if Omar agreed to help the Egyptians authorities in Milan. Omar refused and was imprisoned.

According to news accounts, CIA officers assisted in his interrogation in Egypt, where Omar claims he was tortured. Omar claims he was beaten, raped, sleep-deprived, exposed to extreme hot and cold, stripped naked and subjected to electric shocks.³ After fourteen months in prison, he was released without charge. Egyptian authorities subsequently re-arrested him for allegedly violating the conditions of his release by talking about his treatment in prison. He was released again in 2007 after an Egyptian court ruled that the charges against him were unfounded.⁴

An Italian prosecutor later tracked the abduction to a group of U.S. agents, who he eventually prosecuted. Jeff Castelli, the alleged CIA station chief in Italy, was acquitted after the U.S.

¹ Matthew Cole, Blowback, *GQ*, March 2007.

² John Crewdson, *Chicago Tribune*, January 8, 2007.

³ Peter Bergen, Exclusive: I Was Kidnapped By the CIA, *Mother Jones*, March/April 2008.

⁴ BBC News, Egypt Releases 'Rendition' Cleric, February 12, 2007.

government invoked diplomatic immunity on his behalf. The U.S. did not invoke immunity for the CIA's Milan chief, however, or for 23 other officers, including Ms. DeSousa. They were all convicted in absentia. (Ms. DeSousa has filed a civil suit against the Department of State and several former CIA officials for their refusal to invoke diplomatic immunity on her behalf. The case remains pending.) In November of last year each was sentenced to five years in prison.

In the United States, meanwhile, no one has ever been held accountable for the abduction and rendering of Abu Omar to Egypt to be interrogated under torture. Despite Omar's statements about his own treatment, the Italians' assertion that an ongoing investigation had been disrupted, and a range of corroborating evidence, the United States has not conducted an independent investigation into the case. Moreover, Omar was seized in a foreign country and sent to be interrogated in a third country that is known, according to the U.S. State Department, to torture its prisoners.

Under the 1984 U.N. Convention Against Torture, the United States is obligated to prevent and punish all acts of torture, cruel, inhuman or degrading treatment when "such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity." All signatories to the Convention, which includes the United States, also "have an obligation not to expel, return or extradite a person to another State where he or she would be in danger of being subjected to torture."

The rendition of Abu Omar by U.S. agents to Egypt appears to directly violate these obligations. However, there has been no official investigation in the United States of why Abu Omar was rendered to Egypt, and in particular why the rendition took place despite an ongoing criminal investigation of his conduct by a NATO ally which was well-equipped to prosecute him, if appropriate.

As you know, this is not the only known case of U.S. extraordinary rendition. At least 53 cases of extraordinary rendition have been documented since September 11, 2001; only one of those victims said he had not been tortured. As of Spring 2008, 19 of the victims had apparently disappeared.⁵

⁵ Peter Bergen, *Mother Jones*, March/April 2008.

As you may be aware, Ms. DeSousa has filed a civil suit against the Department of State to protect and defend her from prosecution by a foreign court while serving as a representative of the US government abroad. We are not seeking any assistance or involvement from the Committee with the lawsuit. We are only requesting that the members hear the information that Ms. DeSousa has to disclose.

Human Rights First urges you to meet with Ms. Sousa to discuss this matter, to hear her testimony in a classified hearing, and to investigate further. We can provide Ms. DeSousa's contact information if you wish to contact her directly or through her attorney.

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Devon Chaffee

Advocacy Counsel
Human Rights First

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² John Crewdson, *Chicago Tribune*, January 8, 2007.

³ Peter Bergen, Exclusive: I Was Kidnapped By the CIA, *Mother Jones*, March/April 2008.

⁴ BBC News, Egypt Releases 'Rendition' Cleric, February 12, 2007.

CENTRAL INTELLIGENCE AGENCY
WASHINGTON, D.C. 20505

Office of General Counsel

24 September 2008

VIA COURIER

Jonathan C. Rose
Jones Day
51 Louisiana Ave., N.W.
Washington, DC 20001-2113

Dear Mr. Rose:

I write on behalf of the Director of the National Clandestine Service in response to your 4 August 2008 letter on behalf of your client.

The Central Intelligence Agency (CIA) asked your client to sign a memorandum acknowledging the travel restrictions placed upon certain affected CIA employees because the CIA had become aware that your client had traveled overseas without proper authorization.

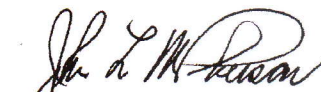
As we discussed in our meeting on 10 July 2008, the travel restrictions are not punitive. Rather, they are intended to protect our employees from arrest. The travel restrictions will apply to certain affected CIA employees as long as the threat of arrest remains.

Under the authority of the National Security Act of 1947 and the Central Intelligence Agency Act of 1949, the CIA is authorized to regulate the conduct of its employees, which includes the authority to impose operational, security, and counterintelligence requirements on its employees as a condition of their continued employment. Violation of such requirements can subject an employee to disciplinary action.

Jonathan C. Rose

The CIA continues to seek a favorable resolution of this matter. Please contact me if you would like to discuss this matter further.

Sincerely,

A handwritten signature in dark ink, appearing to read "John L. McPherson". The signature is fluid and cursive, with the first name "John" and last name "McPherson" clearly distinguishable.

John L. McPherson
Associate General Counsel

CENTRAL INTELLIGENCE AGENCY
WASHINGTON, D.C. 20505

Office of General Counsel

1 October 2008

VIA COURIER

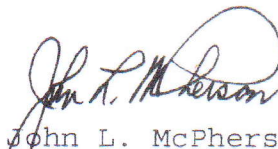
Jonathan C. Rose
Jones Day
51 Louisiana Ave., N.W.
Washington, DC 20001-2113

Dear Mr. Rose:

I write to notify you that on this date the Central Intelligence Agency (CIA) notified your client that the Director of the National Clandestine Service disapproved your client's 22 September 2008 request to travel overseas.

Please contact me if you would like to discuss this matter further.

Sincerely,



John L. McPherson
Associate General Counsel

UNCLASSIFIED

OCT 28 2008


Jonathan C. Rose
Jones Day
51 Louisiana Ave., N.W.
Washington, DC 20001-2113

Dear Mr. Rose:

On behalf of the Director of National Intelligence (DNI), and in response to your letters of 12 June and 4 September 2008, the following is provided. We understand that your client has been, and continues to be, invited to regular meetings at the Central Intelligence Agency (CIA) for updates regarding this matter. Further, we are pleased that the CIA was able to expedite and secure the necessary clearance for your legal assistant, so that you also were able to meet with the CIA Office of General Counsel to discuss this matter on 20 July 2008.

We want to stress that the DNI believes that this matter requires the committed and continued attention of the Intelligence Community. As you have been informed by the CIA, options are being explored to bring the matter to a close. The DNI will continue to monitor this matter, and we will do everything we can to ensure that it is resolved in an appropriate manner and as expeditiously as possible. The CIA also will be responding separately to your letter of 4 September 2008.

Sincerely,



Ronald L. Burgess, Jr.
Lieutenant General, USA

cc: General Michael V. Hayden
The Honorable Condoleezza Rice
The Honorable Michael B. Mukasey
The Honorable Silvestre Reyes
The Honorable Peter Hoekstra
The Honorable John D. Rockefeller IV
The Honorable Christopher S. Bond

UNCLASSIFIED