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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