

# Human Rights Watch

## Torture, Former Combatants, Political Prisoners, Terror Suspects, & Terrorists

**<https://www.hrw.org/news/2018/07/22/iraq-intelligence-agency-admits-holding-hundreds-despite-previous-denials>**

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Ex-Detainee Describes Degrading Conditions

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(Beirut) [Iraqs](#) National Security Service (NSS), an Iraqi intelligence agency reporting to Iraqs prime minister, has acknowledged for the first time that it is detaining individuals for prolonged periods of time, despite not having a clear mandate to do so, Human Rights Watch said today. NSS is holding more than 400 detainees in a detention facility in east Mosul. As of July 4, 2018, 427 men were there, some of whom had been held for more than seven months.

One person held there briefly in April described horrendous conditions, and said that detainees had no access to lawyers, family visits, or medical care. He described one prisoner dying in April after being tortured for months. Human Rights Watch was granted access to the facility on July 4. The detention conditions appeared improved but remained overcrowded.

National Security Service officials in Baghdad told us that the intelligence agency has no authority to hold prisoners, but changed their line once we were able to see the prisoners for ourselves, said [Lama Fakih](#), deputy Middle East director at Human Rights Watch. Baghdad needs to publicly clarify which authorities have the right to hold and interrogate detainees.

On April 17 a senior NSS official in Baghdad denied operating any detention facilities and claimed that the agency only holds small numbers of people for up to 48 hours before transferring them to places of formal detention. But researchers were granted access to the facility, where officials said 427 prisoners were being held at the time. A subsequent written response from the Baghdad office confirmed the NSS is holding prisoners in one facility in Mosul, but then proceeded to speak about detention facilities in the plural form. Given the serious contradiction in statements and facts on the ground, the NSS should clarify the number of prisoners it is detaining and the number and location of facilities it is using to detain them. Iraqi authorities should declare the number of detention facilities across Iraq. Judicial authorities should investigate the allegations presented in this report.

On May 16, Human Rights Watch interviewed Faisal Jeber, 47, an archaeologist, who said that on April 3 a group of three Ministry of Interior Intelligence officers in uniform and two armed men in civilian dress, one of who told Jeber he was from the Prime Ministers Office arrested him at an archaeological site in east Mosul, claiming he had no permission to be there and accusing him of illegal excavations at a public heritage site. They first took him to an intelligence office, before turning him over to NSS officers who called a judge to endorse the arrest, Jeber said. Jeber was not given an opportunity to speak to the judge. NSS then brought him to a two-story house next to the NSS office in al-Shurta neighborhood in Mosul. Jeber said that on the ground floor of the house he saw four rooms being used as cells to hold prisoners and estimated that at least 450 prisoners were held with him based on a daily head count.

Jeber said he was taken before an investigative judge at Mosuls criminal court on April 4, and then returned to the prison for a second night and released the following day pending trial. Upon arrival at the prison, he said guards confiscated his glasses and watch, and other personal items. When he was released, Jeber said guards did not give him his shoes or socks back, sending him out barefoot, and kept his belt, keychain, and headphones.

While Jeber was only held for 48 hours, he said he spoke with six men and one boy detained in the cell with him who told him NSS held them for between four months to two years, some being transferred to several NSS facilities before arriving at this one. Human Rights Watch researchers visited the facility on July 4, and the head of the NSS in Mosul showed them a brand new prison block that had been built next to the house where Jeber had been held. The new facility had three rooms and held 427 adult male prisoners, according to the NSS official. He said they transferred all prisoners under the age of 18 to another facility. He said some had been at the prison for up to seven months.

Another NSS officer who spoke to researchers on condition of anonymity said that some had been held for over one year, having been transferred from Qayyarah to Bartalla and on to Mosul when the detention site opened there seven months ago. The second officer said they had been holding the prisoners in a house next door, but after pressure from Baghdad, a few months ago they built the new prison

block and transferred the prisoners there to improve conditions. The three rooms were clean, with air-conditioning, but like other prisons in Iraq extremely overcrowded.

The head of the NSS in Mosul said all the prisoners were wanted for ISIS affiliation, and were interrogated before they were either brought before an investigative judge or handed over to another security entity if that entity had the person on one of their wanted databases, including the Ministry of Interiors intelligence branch, or military intelligence. He said they only arrested people after obtaining a warrant, and that all detainees had access to a judge and a lawyer within 24 hours of their arrest. Human Rights Watch did not interview any of the detainees at the facility.

Two Mosul lawyers who defend ISIS suspects said that in their experience, many prisoners are seeing an investigative judge within 24 hours, but have no government-appointed lawyer present then, nor later when the NSS interrogates them further. While the seven detainees told Jeber they had been brought before an investigative judge, none of them had access to a lawyer and they did not know if a lawyer was present to provide them with a defense during their hearing.

Iraq's Criminal Code of Procedure allows police and crime scene officers to detain and interrogate criminal suspects if they have a warrant. It defines crime scene officers broadly, making it impossible to ascertain which forces are included. The NSS head in Mosul said that the NSS was authorized to arrest, hold, and interrogate prisoners.

However, Hamid al-Zerjawi, deputy National Security Service chief, told Human Rights Watch on April 17, that the NSS has no functional detention facilities in the country, and only one facility in Baghdad that is not yet operational. He conceded that the NSS held small numbers of people for up to 24 hours after their arrest at one of their offices, before bringing them before a judge, who could allow them an extra 24 hours of detention, before they needed to transfer the detainee to a formal detention facility. He said the NSS never held any detainee for over 48 hours.

On July 11, the NSS's Baghdad office responded to Human Rights Watch inquiries into the facility. The written response acknowledged that the NSS is holding detainees at a single facility in Mosul with the consent of the High Judicial Council in Nineveh, that all detainees are held under judicial arrest warrants, see a judge within 24 hours of arrest, and are transferred to Ministry of Justice prisons upon being sentenced. The response did not provide any numbers of detainees nor details into the length of time they are being held at the facility, but stated that detainees are allowed to retain a lawyer, or have one appointed by the court, but added: most lawyers in the governorate of Nineveh abstain from arguing terrorism cases. It said there were no detainees under the age of 18.

The Iraqi authorities should publicly clarify which forces have a legal mandate to arrest, hold, and interrogate suspects, and provide a list of all official detention facilities. They should transfer all detainees to prisons run by authorities with a legal mandate to detain people. Such sites should be built to accommodate detainees, and equipped to meet basic international standards, even if this requires transferring the detainees outside of the Nineveh governorate, where Mosul is located. All detainees should have a medical screening upon arrival and be ensured access to medical care. Judges should only order detention in locations, and under the authority of forces, legally authorised to hold detainees, and order the immediate release of detainees or prisoners being held in inhuman or degrading conditions or otherwise detained unlawfully.

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The authorities should also ensure that there is a clear legal basis for detention, that all detainees have access to legal counsel including during interrogation, and that detainees are moved to facilities accessible to government inspection, independent monitors, relatives, and lawyers, with regular and unimpeded access. The authorities should immediately notify families of the detention of their loved ones and which authority is detaining them and promptly take detainees before a judge to rule on the legality of their detention. They should immediately comply with any order by judges to release detainees.

Children alleged to have committed illegal acts should be treated in accordance with international juvenile justice standards. International law allows authorities to detain children pretrial in limited situations, but only if formally charged with committing a crime, not merely as suspects. The authorities should release all children not yet formally charged.

Authorities should be doing whatever it takes to make sure that families know where their loved ones are, Fakhri said. The government should crack down on forces with no legal mandate that are holding detainees for months on end without seeing a judge.

### The Former Detainees Account

Faisal Jeber, the archeologist, told Human Rights Watch that the detainees he spoke to said they were being held on suspicion of ISIS affiliation and alleged that during interrogations NSS officers had beaten them with plastic or electrical cables, electrocuted them, beaten the soles of their feet, and hung them with their hands bound behind their backs.

Jeber said that at 3 a.m. on his first night at the prison, an argument broke out between two prisoners in his room. He said two guards came in, took the two men out, and in front of the window Jeber saw each guard beat one of the men with plastic cables and pipes for about 20 minutes, cursing and shouting at them before returning them to the room.

He said that first night in detention he was told that a man had died after being tortured:

My first night it was the time when we all get to use the bathroom. As we were getting ready to leave our room in a line, we heard voices coming out of the room and it was chaos; the guards were saying someone had died. One prisoner with me said that he had been in the cell with the man who died, and said he was in his thirties, had been at the prison for some time, and had been tortured to the point that he had been half paralyzed.

The NSS July 11 response acknowledged deaths at the prison, stating, There have been very limited cases of death, which were judicially documented, without providing any further detail. The response also stated,

There has been no use of torture inside detention centers, and no signs of torture or ill-treatment have been found, knowing that there is a department within the NSS that is specialized in these cases if they occur.

Jeber described the conditions in the facility, raising concerns about overcrowding, unhygienic conditions, and unreasonable restrictions on using the bathroom. He said that the room he was held in had a single window and small ventilator and was about 4 by 5 meters:

As I walked in I saw that half the prisoners were standing and the other half sitting because there wasn't enough room for all of us to sit at the same time. My fellow inmates told me that I was the 79th person in the room. All around me on the walls were plastic bags hanging as well as plastic bottles holding a dark yellow liquid. The prisoners told me that was the only way that I could use the bathroom- urinate into the bottle or defecate into the bag- because the NSS guards only allowed prisoners to use the bathroom once every two days.

He said that at night the prisoners slept in shifts in the scabies-infested room because there was not enough room for all of them to lie down, with some standing until 6 a.m., before it was their turn to lie down with their heads between the legs of other prisoners.

Jeber also raised concerns about the absence of medical care for the detainees. He said that the first night of his detention one man in his cell suffered an epileptic seizure but received no medical attention. Other prisoners told him the guards had said that a doctor would only come if someone died and the body needed to be removed.

The NSS head in Mosul told Human Rights Watch that a representative from the Health Ministry visited there regularly to provide medical assistance, something Human Rights Watch was unable to verify.

The [conditions the NSS held Jeber and others in](#), before the transfer to the new facility, are similar to the dire conditions at other prisons in the towns of Qayyarah and Hammam al-Alil, that Human Rights Watch visited in 2017.

Most of the prisoners Jeber spoke to said they had been able to bribe the guards to allow them to communicate with their families indirectly but none had been allowed a family visit. One gave Jeber his uncle's phone number. Jeber said, After I was released I called his uncle, who was surprised that he was still alive and said the family had no news of him since he had disappeared during the Mosul battle in early 2017. The anonymous officer said that they forbade prisoners to have any visits or contact with their families or the outside world. The NSS July 11 response stated that detainees were only allowed to contact their families after the interrogation period ends.

Jeber believed that there were at least 450 prisoners in the home at the time he was held, because on the two days he was held there he said guards at the facility did a headcount and he overheard them counting at least 450 prisoners.

### **The NSS response**

The NSS officer who spoke to researchers on the condition of anonymity said that officers know some prisoners are innocent. He said the NSS held many of them for months because Nineveh only has one counterterrorism judge hearing cases of detainees held by the NSS, leading to long delays. He said in cases where a defendant does not confess to a crime, the judge needs to order a range of investigations to be carried out by various security actors which also takes a long time to complete.

The NSS head in Mosul stated that the detention site has many prisoners they would like to transfer to other authorities, with a judge's order, but that there is no room available in other prisons. The prohibition against arbitrary detention is enshrined in Iraq's constitution and civil code. Under international criminal law, widespread or systematic use of arbitrary detention can be considered a crime against humanity if it is applied as part of a state policy.

Iraq's penal code says that arbitrary detention is a criminal act if, among other conditions, the person who commits the offense issues a false arrest or detention order, threatens the person with death or torture, and holds the person for more than 15 days.

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