

# Center for Constitutional Rights

## Discrimination, Detention, and Deportation: Immigration & Refugees

**<https://ccrjustice.org/home/get-involved/tools-resources/factsheets-and-faqs/faqs-what-are-ghost-detentions-and-black>**

### Policy Issue Resources

Soon after September 11, reports began appearing that people were being picked up around the world and held by the Central Intelligence Agency (CIA). These people weren't being held by their own countries' intelligence or security services, and they weren't being openly held by the U.S. military. Instead, they were lost in the black hole of enforced disappearance, becoming ghosts held in secret prisons unknown to anyone in the outside world. These black sites are located around the world in Thailand, Afghanistan, several Eastern European countries, and perhaps elsewhere.

The program of CIA secret detention operated in close secrecy for almost five years. Authorized by a September 17, 2001 classified presidential directive which remains secret to the present day, the CIA's secret detention program holds people in secret facilities, their detention often unacknowledged, and barred from communication with family, legal counsel, or anyone in the outside world.

While government officials would, from time to time, refer to the CIA detaining people in undisclosed locations abroad, it was not until September 2006 long after information about the program had reached the public eye through the experiences of former detainees that President George W. Bush officially and publicly acknowledged the program, declaring that the CIA had been holding people in secret detention facilities around the world, and that it had the right to continue to do so. At the same time, Bush announced the transfer of 14 so-called high-value detainees to the Guantanamo Bay detention facility in Cuba, for the first time acknowledging that these men had been held in ghost detention for years. While Bush stated that the sites were then empty, he left open the possibility of using them again in the future. In addition to a number of individuals who have been suspected for some time to be held in CIA ghost detention, in April 2007, Bush announced the transfer of another high-profile detainee to Guantanamo Bay from CIA secret custody, making it clear that the program continues to operate in secret, and without oversight.

#### **What is enforced disappearance? Is it legal?**

These individuals are victims of enforced disappearance as defined by international human rights law. Enforced disappearances involve violations of numerous treaties binding on the United States, and also violate international humanitarian law. An enforced disappearance takes place when the government arrests, detains or abducts a person and then refuses to acknowledge the arrest or detention, or the location of the person detained. Enforced disappearances place victims outside the protection of the law, without access to anyone who can protect them. International law considers enforced disappearance a continuing violation, ongoing until the fate or the whereabouts of the disappeared person are revealed.

#### **What are conditions like in the black sites?**

The CIA admits to using so-called enhanced interrogation techniques or alternative interrogation techniques against ghost detainees held in the black sites. These techniques amount to torture and cruel, inhuman or degrading treatment, including waterboarding, a form of mock execution where a detainee is strapped to a board and water poured over the detainee, causing him to believe and physically experience the sensation of drowning. Various accounts of individuals who have been released from secret CIA prisons intersect in their experiences of abuse, including sleep deprivation, forced standing, and exposure to extreme cold.

To this day, the government has resisted providing any legal access to those men in Guantanamo Bay who were transferred there from CIA custody. Public transcripts that have been released of preliminary military hearings held for those detainees reveal time and again that they speak of experiencing torture, yet the government has redacted all of their descriptions of the torture they experienced, preventing their stories from reaching the public eye.

#### **What do CIA secret prisons have to do with other US detentions?**

The government has constructed a detention system of international scope for those it designates as terrorism suspects, capturing these men and holding them in a web of extralegal facilities and secret locations, preventing them from access to the courts or the outside world. This system includes the transfer of some men to third countries, often where they are subject to torture and abuse (so-called extraordinary rendition,) detention in acknowledged facilities that the government claims to be outside standard legal authority (Guantanamo Bay and prisons in Afghanistan and Iraq), detention in secret CIA facilities (ghost detention), and detention in foreign-controlled facilities at the behest of the U.S. government (proxy detention). In all cases, detainees are deprived of any substantive protection of their rights, and reports of torture and abuse are common.

#### **Who is held in CIA secret detention?**

A number of individuals from many countries have been held in CIA secret detention, and many more are suspected to be held in secret

sites. Several victims of secret detention have spoken out about their experiences after being released. One man, Khaled el-Masri, a German citizen of Lebanese descent, who was held for months in secret CIA detention because of mistaken identity, has shared his experience in detail, and filed suit against the U.S. government. A new report, [Off the Record: U.S. Responsibility for Enforced Disappearances in the War on Terror](#), produced by six human rights organizations, including the Center for Constitutional Rights, provides specific information about individuals believed to be held in secret CIA detention. In some cases, family members including young children of ghost detainees have been detained themselves, and held in CIA secret sites, including 9 and 7 year old boys.

### **What should be done?**

CIA secret detention is a violation of international law and an affront to all principles of rights or justice. The United States must cease the use of secret detention, and must immediately make known the names and whereabouts of all detainees, provide immediate access to the Red Cross, allow access to attorneys and family members, and either charge detainees with a crime or release them. The U.S. government must, in addition, stop the detention of family members of suspects based on their family relationships, and provide compensation to those who have been victims of secret detention. In addition, it is imperative that the U.S. come clean about the program, and release the names and fates of all of those who have been held in the secret detention program. Other countries also have a responsibility they should not facilitate secret detention or allow secret prisons on their territory, and should release the information they have about such programs.

### **What is CCR doing about ghost detention?**

With other human rights and legal organizations, the Center for Constitutional Rights is filing a lawsuit against the government, demanding they release requested information about the program under the Freedom of Information Act. This lawsuit attempts to stop the shroud of secrecy and silence surrounding this program, and open its operations to the public eye and meaningful oversight. In addition, CCR provides legal representation to Majid Khan, one of the 15 men transferred from secret CIA custody to Guantanamo Bay. CCR, with five other human rights organizations, also recently cooperated to release the report, [Off the Record: U.S. Responsibility for Enforced Disappearances in the War on Terror](#), that details the ghost detention program and exposes its reality.

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