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Rule Change Lets C.I.A. Freely Send Suspects Abroad to Jails

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WASHINGTON - The Bush administration's secret program to transfer suspected terrorists to foreign countries for interrogation has been carried out by the Central Intelligence Agency under broad authority that has allowed it to act without case-by-case approval from the White House or the State or Justice Departments, according to current and former government officials.

The unusually expansive authority for the C.I.A. to operate independently was provided by the White House under a still-classified directive signed by President Bush within days of the Sept. 11, 2001, attacks at the World Trade Center and the Pentagon, the officials said.

The process, known as rendition, has been central in the government's efforts to disrupt terrorism, but has been bitterly criticized by human rights groups on grounds that the practice has violated the Bush administration's public pledge to provide safeguards against torture.

In providing a detailed description of the program, a senior United States official said that it had been aimed only at those suspected of knowing about terrorist operations, and emphasized that the C.I.A. had gone to great lengths to ensure that they were detained under humane conditions and not tortured.

The official would not discuss any legal directive under which the agency operated, but said that the "C.I.A. has existing authorities to lawfully conduct these operations."

The official declined to be named but agreed to discuss the program to rebut the assertions that the United States used the program to secretly send people to other countries for the purpose of torture. The transfers were portrayed as an alternative to what American officials have said is the costly, manpower-intensive process of housing them in the United States or in American-run facilities in other countries.

In recent weeks, several former detainees have described being subjected to coercive interrogation techniques and brutal treatment during months spent in detention under the program in Egypt and other countries. The official would not discuss specific cases, but did not dispute that there had been instances in which prisoners were mistreated. The official said none had died.

The official said the C.I.A.'s inspector general was reviewing the rendition program as one of at least a half-dozen inquiries within the agency of possible misconduct involving the detention, interrogation and rendition of suspected terrorists.

In public, the Bush administration has refused to confirm that the rendition program exists, saying only in response to questions about it that the United States did not hand over people to face torture. The official refused to say how many prisoners had been transferred as part of the program. But former government officials say that since the Sept. 11 attacks, the C.I.A. has flown 100 to 150 suspected terrorists from one foreign country to another, including to Egypt, Syria, Saudi Arabia, Jordan and Pakistan.

Each of those countries has been identified by the State Department as habitually using torture in its prisons. But the official said that guidelines enforced within the C.I.A. require that no transfer take place before the receiving country provides assurances that the prisoner will be treated humanely, and that United States personnel are assigned to monitor compliance.

"We get assurances, we check on those assurances, and we double-check on these assurances to make sure that people are being handled properly in respect to human rights," the official said. The official said that compliance had been "very high" but added, "Nothing is 100 percent unless we're sitting there staring at them 24 hours a day."

It has long been known that the C.I.A. has held a small group of high-ranking leaders of Al Qaeda in secret sites overseas, and that the United States military continues to detain hundreds of suspected terrorists at Guantánamo Bay, Cuba, and in Afghanistan. The rendition program was intended to augment those operations, according to former government officials, by allowing the United States to gain intelligence from the interrogations of the prisoners, most of whom were sent to their countries of birth or citizenship.

Before Sept. 11, the C.I.A. had been authorized by presidential directives to carry out renditions, but under much more restrictive rules. In most instances in the past, the transfers of individual prisoners required review and approval by interagency groups led by the White House, and were usually authorized to bring prisoners to the United States or to other countries to face criminal charges.

As part of its broad new latitude, current and former government officials say, the C.I.A. has been authorized to transfer prisoners to other countries solely for the purpose of detention and interrogation.

The covert transfers by the C.I.A. have faced sharp criticism, in part because of the accounts provided by former prisoners who say they were beaten, shackled, humiliated, subjected to electric shocks, and otherwise mistreated during their long detention in foreign prisons before being released without being charged. Those accounts include cases like the following:

Maher Arar, a Syrian-born Canadian, who was detained at Kennedy Airport two weeks after the Sept. 11 attacks and transported to Syria, where he said he was subjected to beatings. A year later he was released without being charged with any crime.

Khaled el-Masri, a Lebanese-born German who was pulled from a bus on the Serbia-Macedonia border in December 2003 and flown to Afghanistan, where he said he was beaten and drugged. He was released five months later without being charged with a crime.

Mamdouh Habib, an Egyptian-born Australian who was arrested in Pakistan several weeks after the 2001 attacks. He was moved to Egypt, Afghanistan and finally Guantánamo. During his detention, Mr. Habib said he was beaten, humiliated and subjected to electric shocks. He was released after 40 months without being charged.

In the most explicit statement of the administration's policies, Alberto R. Gonzales, then the White House counsel, said in written Congressional testimony in January that "the policy of the United States is not to transfer individuals to countries where we believe they likely will be tortured, whether those individuals are being transferred from inside or outside the United States." Mr. Gonzales said then that he was "not aware of anyone in the executive branch authorizing any transfer of a detainee in violation of that policy."

Administration officials have said that approach is consistent with American obligations under the Convention Against Torture, the international agreement that bars signatories from engaging in extreme interrogation techniques. But in interviews, a half-dozen current and former government officials said they believed that, in practice, the administration's approach may have involved turning a blind eye to torture. One former senior government official who was assured that no one was being mistreated said that accumulation of abuse accounts was disturbing. "I really wonder what they were doing, and I am no longer sure what I believe," said the official, who was briefed periodically about the rendition program.

In Congressional testimony last month, the director of central intelligence, Porter J. Goss, acknowledged that the United States had only a limited capacity to enforce promises that detainees would be treated humanely. "We have a responsibility of trying to ensure that they are properly treated, and we try and do the best we can to guarantee that," Mr. Goss said of the prisoners that the United States had transferred to the custody of other countries. "But of course once they're out of our control, there's only so much we can do. But we do have an accountability program for those situations."

The practice of transporting a prisoner from one country to another, without formal extradition proceedings, has been used by the government for years. George J. Tenet, the former director of central intelligence, has testified that there were 70 cases before the Sept. 11 attacks, authorized by the White House. About 20 of those cases involved people brought to the United States to stand trial under informal arrangements with the country in which the suspects were captured.

Since Sept. 11, however, it has been used much more widely and has had more expansive guidelines, because of the broad authorizations that the White House has granted to the C.I.A. under legal opinions and a series of amendments to Presidential Decision Directives that remain classified. The officials said that most of the people subject to rendition were regarded by counterterrorism experts as less significant than people held under direct American control, including the estimated three dozen high ranking operatives of Al Qaeda who are confined at secret sites around the world.

The Pentagon has also transferred some prisoners to foreign custody, handing over 62 prisoners to Pakistan, Morocco, Saudi Arabia and Kuwait, among other countries, from the American prison in Guantánamo Bay, in actions that it has publicly acknowledged. In some of those cases, a senior Defense Department official said in an interview on Friday, the transfers were for the purpose of prosecution and trials, but others were intended solely for the purpose of detention. Those four countries, as well Egypt, Jordan and Syria, were among those identified in a State Department human rights report released last week as practicing torture in their prisons.

In an interview, the senior official defended renditions as one among several important tools in counterterrorism efforts. "The intelligence obtained by those rendered, detained and interrogated have disrupted terrorist operations," the official said. "It has saved lives in the United States and abroad, and it has resulted in the capture of other terrorists."