

Obama Administration Backs Bush Policy in Terror Case

By Justin Blum and Joel Rosenblatt

Feb. 10 (Bloomberg) -- The Obama administration is backing an anti-terrorism policy of President George W. Bush, urging a federal appeals court to throw out a lawsuit that accuses a Boeing Co. unit of helping the CIA fly suspects overseas to be tortured.

The Justice Department said it is reviewing other cases in which the Republican Bush administration urged similar complaints be dismissed because of the need to protect state secrets.

The review is designed to ensure that the policy on secrecy will apply "only in legally appropriate situations," Matt Miller, a Justice Department spokesman, said in an interview. He said he isn't sure how many cases are under examination.

The American Civil Liberties Union, based in New York, criticized the Obama administration's position and urged a three-judge appeals court in San Francisco to revive the Boeing case. The suit was dismissed last year by a trial judge. The appeals court heard arguments in the case yesterday.

Under Bush, the government argued national security would be jeopardized if the 2007 suit against Boeing's Jeppesen Dataplan is allowed to proceed. Jeppesen was accused of falsifying flight plans to disguise the Central Intelligence Agency's delivery of suspected terrorists to secret prisons where they were allegedly tortured.

The ACLU alleged that Jeppesen helped transport terrorism suspects on more than 70 flights to countries where they weren't protected by U.S. law and were tortured during CIA interrogation.

'Reprehensible Policy'

"Eric Holder's Justice Department stood up in court today and said that it would continue the Bush policy of invoking state secrets to hide the reprehensible history of torture, rendition and the most grievous human rights violations committed by the American government," said ACLU Executive Director Anthony D. Romero in a statement yesterday. "This is not change. This is definitely more of the same."

Holder, who took office last week as attorney general in the new Democratic administration, believes "it is vital to protect information that, if released, would jeopardize national security," said the Justice Department's Miller. "The Justice Department will ensure the state secrets privilege is not invoked to hide from the American people information that they should have a right to know."

Choice to Head CIA

Leon Panetta, President Barack Obama's pick to head the CIA, said Feb. 5 the U.S. wouldn't send terror suspects to countries that might torture them or to secret prisons where they could be held indefinitely.

Panetta said such transfers, as well as detainment in so-called "black sites," would violate an executive order Obama signed last month. Obama ordered the closing of secret prisons and said all interrogations must adhere to the Army Field Manual ban on use of threats and physical abuse.

The ACLU's case relies in part on Sean Belcher, a former Jeppesen employee. In a 2007 court document, Belcher said a senior Jeppesen official, Bob Overby, told employees the company did "all the 'extraordinary rendition' flights" for the CIA. Belcher said the "torture flights" were profitable, according to the ACLU.

The ACLU sued on behalf of five foreigners who it claims were transferred from their homes and interrogated or tortured in different countries. The case was filed under a law that lets non-citizens bring claims against the government for allegedly violating laws of other nations or American treaties.

Navigation Charts

Jeppesen, based in Englewood, Colorado, provides navigation charts, refueling plans and route planning. Boeing, based in Chicago, is the second-largest U.S. defense contractor behind Lockheed Martin Corp.

Mike Pound, a Jeppesen spokesman, declined to comment on the case.

The **Washington Legal Foundation**, which describes itself as promoting free enterprise and limited government, praised the Justice Department's position. The group last year filed a brief saying the complaint should be dismissed.

"Regardless of how the administration wishes to address rendition programs going forward, it is to be applauded for recognizing the need to maintain the secrecy of CIA programs," said **Richard Samp, the group's chief counsel**, in a statement. "The judicial branch is simply not the appropriate forum for airing these types of issues."

The case is Mohamed v. Jeppesen, 08-15693, U.S. Court of Appeals for the Ninth Circuit (San Francisco).

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