



Written by [Thomas R. Eddlem](#) on August 10, 2009

## Secret Prisons and Gag Orders Continue Under Obama

President Barack Obama took office with a pledge to end secret prisons and minimize government secrecy, but evidence revealed by the American Civil Liberties Union (ACLU) last week proved he has turned those promises into lies.

President Obama is continuing President Bush's policies of issuing gag orders under the Patriot Act to Internet service providers and has reportedly allowed the Soviet-style disappearance of suspects into prisons that don't officially exist.

President Obama has followed in President Bush's footsteps with regard to the secrecy in the issuance of FBI "National Security Letters" under the Patriot Act. National Security Letters are warrantless searches by the FBI that make it a crime for the person or company being searched to reveal that they've been searched. That's been the case with most of the thousands of "National Security Letters" issued by the FBI every year, including a case by an unknown Internet service provider (ISP) currently before the court. It's even a crime to reveal that you've been issued a National Security Letter, thus the ISP has been forced to sue only in anonymity in a case that originated five years ago. The ISP has sued to end the National Security Letter gag order in the case of *John Doe v. Eric Holder*, but the Obama administration has sought to deny the courts information that would be necessary for the courts to judge the merits of the case — to judge whether or not "national security interests" merit the gag order after five years. The ACLU has [pointed out](#) that the FBI doesn't even want information from the ISP anymore: "The FBI continues to maintain the gag order even though the underlying investigation is more than five years old and even though the FBI





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abandoned its demand for records from the ISP over two years ago." Yet the Obama administration has kept up the Bush-era fight to gag recipients of FBI National Security Letters.

The courts have continued to rule in favor of the First Amendment-protected right to freedom of speech. The U.S. Court of Appeals for the Second Circuit (New York) [ruled on August 7](#) that the federal government must provide sufficient information to the court to let the case go forward. "The government's reliance on completely secret evidence to justify this five-year-old, unconstitutional gag order undermined our John Doe client's right to a fair process," [said](#) Melissa Goodman, staff attorney with the ACLU National Security Project. "The court was right to find that the government cannot continue to silence Doe based entirely on evidence we are not even allowed to see, let alone given a meaningful opportunity to refute."

And the ACLU [revealed](#) August 7 that the U.S. government is quite likely maintaining secret CIA prisons around the world, a practice started by the Bush administration. The centerpiece of that allegation is the U.S. government's response to a request for the location of Mustafa Setmariam Nasar, who disappeared when placed into U.S. custody back in 2005. The ACLU reported that in a June 30 "request for information about Nassar's whereabouts, the CIA stated that it could 'neither confirm nor deny the existence or nonexistence of records' responsive to the request."

Nasar is definitely an unsavory character at best, and at worst he is al-Qaeda's leading theoretician. He is a citizen of Syria, where he was born, and of Spain after marrying Spanish citizen Helena Moreno Cruz. The two have four children. But Nasar has been reported to be in U.S. custody over the years, including having been sent to the CIA's secret prison on the British Island of Diego Garcia in the Indian Ocean. Officially, the Diego Garcia prison never existed. More recently, Reuters wire service [reported on June 10](#): "Human rights attorney Clive Stafford-Smith told Reuters that Mustafa Setmariam Nasar's presence in Syria had come to light only recently but he may have been held there for some years. Stafford-Smith said Nasar, also known as Abu Musab al-Suri, appeared to have been under effective U.S. control in a secret system of detention and transfers before surfacing in Syria, which is listed by Washington as a state sponsor of terrorism." Syria has long been reported to house a prison where U.S. prisoners were sent under the CIA policy of "extraordinary rendition." Among those renditioned to Syria over the years was [Maher Arar](#), an innocent Canadian computer programmer who suffered nine months of torture in Syria before being released without charges.

The ACLU has the following summary of what has happened to Nasar over the past four years: "The U.S. Embassy in Pakistan announced a \$5 million reward for information leading to Nassar's capture, which was withdrawn around the time of his reported capture. The U.S. National Counterterrorism Center confirms Nassar's capture in November 2005, and media reports indicate that Nassar was later held for a time at a U.S. military base on the British-owned island of Diego Garcia in the Indian Ocean. In June 2009, responding to a request from a Spanish judge for information on Nassar's whereabouts, the FBI stated it was not holding him in the United States but failed to address whether Nassar was being held in U.S. custody elsewhere."

Nasar's wife has taken the case of the Soviet-style disappearance of her husband public. "Mr. Nassar's wife and children want to know if he is still alive and where he is," [said](#) Steven Watt, staff attorney with the ACLU Human Rights Program. "Requests for information about his forced disappearance, nearly



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four years ago, have been ignored by the U.S. government, and his family now has no other choice but to turn to the international community for assistance in their quest."

Meanwhile, the consequences of U.S. foreign policy has real human costs. "I have been bringing up four children without their father for nearly four years now. They keep asking about dad and I have no idea what to tell them anymore — I don't even know if their father is still alive. Without knowing what has happened to my husband, I don't know where to go with my life or how to move on. The pain of not knowing is becoming unbearable and I am so concerned for my children's well-being if they should find out about the tragedy that we are being put through," Nasar's wife Cruz [said](#). "If my husband is suspected of doing anything wrong, he should get his day in court. If he isn't, he should be let go. No one deserves to be treated like this."

*Photo: Diego Garcia*



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