

Court case reveals details of secret flights

STEPHEN BRAUN - Associated Press - Associated Press

The secret airlift of terrorism suspects and American intelligence officials to CIA-operated overseas prisons via luxury jets was mounted by a hidden network of U.S. companies and coordinated by a prominent defense contractor, newly disclosed documents show.

More than 1,700 pages of court files in a business dispute between two aviation companies reveal how integral private contractors were in the government's covert "extraordinary rendition" flights. They shuttled between Washington, foreign capitals, the U.S. military base at Guantanamo Bay, Cuba, and, at times, landing points near once-secret, CIA-run overseas prisons.

The companies ranged from DynCorp, a leading government contractor that secretly oversaw the flights, to caterers that unwittingly stocked the planes with fruit platters and bottles of wine, the court files and testimony show.

A New York-based charter company, Richmor Aviation Inc., which supplied corporate jets and crews to the government, and a private aviation broker, SportsFlight Air, which organized flights for DynCorp, have been engaged in a four-year legal dispute. Both sides have cited the government's program of forced transport of detainees in testimony, evidence and legal arguments. The companies are fighting over \$874,000 awarded to Richmor by a New York state appeals court to cover unpaid costs for the secret flights.

The court files, which include contracts, flight invoices, cell phone logs and correspondence, paint a sweeping portrait of collusion between the government and the private contractors that did its bidding — some eagerly, some hesitantly. Other companies turned a blind eye to what was going on.

Trial testimony studiously avoided references to the CIA. When lawyers pressed a witness about flying terrorists from Washington or Europe to Guantanamo Bay, Supreme Court Judge Paul Czajka of Columbia County, N.Y., put on the brakes: "Does this have anything to do with the contract? I mean, it's all very interesting, and I would love to hear about it, but does it have anything to do with how much money is owed?"

At another point, the name of a high-level CIA official was mentioned, but the official's intelligence ties were not divulged.

Among the new disclosures:

—DynCorp, which was reorganized and split up between another major contractor and a separate firm now known as DynCorp International, functioned as the primary contractor over the airlift. The company had not been previously linked to the

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secret flights.

—Airport invoices and other commercial records provide a new paper trail for the movements of some high-value terrorism suspects who vanished into the CIA "black site" prisons, along with government operatives who rushed to the scenes of their capture. The records include flight itineraries closely coordinated with the arrest of accused 9/11 mastermind Khalid Sheik Mohammed and the suspected transport of other captives.

—The private jets were furnished with State Department transit letters providing diplomatic cover for their flights. Former top State Department officials said similar arrangements aided other government-leased flights, but the documents in the court files may not be authentic since there are indications that the official who purportedly signed them was fictitious.

—The private business jets shuttled among as many as 10 landings over a single mission, costing the government as much as \$300,000 per flight.

According to invoices between 2002 and 2005, many of the flights carried U.S. officials between Washington Dulles International Airport and the Guantanamo detention compound, where the U.S. was housing a growing population of terror detainees. Other flights landed at a dizzying array of international airports.

Jets were dispatched to Islamabad; Rome; Djibouti; Frankfurt, Germany; Dubai, United Arab Emirates; Shannon, Ireland; Glasgow, Scotland; Tenerife, Spain; Sharm el Sheik, Egypt; and even Tripoli.

Some flights landed at airports near where CIA black sites operated: Kabul, Bangkok and Bucharest. Others touched down at foreign outposts where obliging security services reportedly took in U.S. terror detainees for their own severe brand of persuasion: Cairo; Damascus, Syria; Amman, Jordan; and Rabat, Morocco. Billing records show scores of baggage handlers, ramp officials, van and car providers, satellite and flight phone firms, hotels and caterers routinely serviced the flights and crews and earned tens of thousands of dollars.

The court records do not specify who was aboard the planes beyond a count of crew and passengers. But in several cases, the flights dovetail with the arrests and transport of some of the most prominent accused terrorism suspects captured in the months immediately following the Sept. 11, 2001, attacks: Mohammed, the purported mastermind, and Ramzi bin Alshib, his key logistics man; Abd al-Nashiri, who allegedly planned the 2000 bombing of the USS Cole; and Hambali, an Indonesia terror leader tied to the 2002 bombing of a Bali nightclub. The detainees all vanished into the CIA's now-shuttered "black site" prison network and all are now at Guantanamo awaiting military trials.

President George W. Bush acknowledged the existence of the prison network in 2006, and the CIA director in 2009, Leon Panetta, said the prisons were no longer in use. The intelligence agency has never acknowledged specific locations, but prisons overseen by U.S. officials reportedly operated in Poland, Romania, Thailand,

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Lithuania and Afghanistan. Detainees have claimed in legal actions that they were flown, often hooded and shackled, to the prisons, where some were exposed to simulated drowning known as waterboarding and other harsh interrogation techniques.

The inner workings of the flight program have leaked previously. Aviation logs and other records were exposed by lawsuits and European parliamentary inquiries, and investigative accounts have traced patterns of some planes used in the flights. The Council of Europe estimated in 2007 that 1,245 CIA-operated flights passed over the continent, but an accurate count of actual rendition flights will probably never be known without a U.S. government accounting.

But few court and corporate records have emerged describing the backstage role of private companies that aided in the secret flights. The international human rights group, Reprieve, which discovered the court case in New York, said the material provides "an unprecedented insight into the government's outsourcing of torture."

On Thursday, the Council of Europe's Human Rights Commissioner faulted the U.S. for "countless crimes," specifically citing the rendition flights and black sites as "systematic violations of human rights."

"Through rendition, the CIA captured individual suspects on foreign territories, often with the assistance of the local security services, and flew them to some specific third countries to be interrogated," said Commissioner Thomas Hammarberg. "This technique kept the suspects outside the reach of any justice system and rendered them vulnerable to ill-treatment."

In the court case, Richmor accused SportsFlight in 2007 of failing to pay more than \$1.15 million for guaranteed flight hours that were unused after at least 55 missions flown by planes and crews chartered by DynCorp for government use. A state judge ruled for Richmor in January 2010, awarding the company \$1.6 million. In May, an appeals court affirmed the decision, cutting the judgment to \$874,000. Richmor contends it still has not been paid in full.

During the trial, Richmor's president, Mahlon Richards, carefully described flights as classified and said passengers were "government personnel and their invitees." But he also said he was aware of allegations his planes flew "terrorists" and "bad guys." In a phone interview this week, Richards said he had agreed to work with the government as a patriotic response to the Sept. 11 attacks, adding that his company was only one of several air charter concerns that provided jets.

"We thought we were doing a good thing," Richards said. He declined to specify which government agency he dealt with or describe how the flights operated, citing confidentiality agreements with the government. But he noted, "It was the government that called the shots."

SportsFlight's lawyers made the nature of the flights a central part of its legal appeal, insisting that SportsFlight's president, Don Moss, learned over time that "the flights would be going to and from Guantanamo Bay and would be used for

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assorted rendition missions."

In one deposition, he blurted out the name of a CIA official during a line of questioning quickly aborted by the lawyers. The official's intelligence background was not mentioned, but The Associated Press has independently confirmed the official's role in CIA operations. Contacted at his New York home, Moss would only verify that his trial testimony was accurate.

A CIA spokeswoman said the agency does not comment on pending litigation.

DynCorp is the largest company known to be involved in the secret flights. Previously, the most prominent company linked to the airlift had been Boeing subsidiary Jeppesen Dataplan, which was accused in a 2007 ACLU lawsuit of providing flight planning and navigation for rendition jets. Justice Department attorneys intervened in that case, urging judges to dismiss the case on national security grounds, and a federal appeals court agreed. There is no indication the government intervened in the New York state case.

DynCorp was purchased in 2003 by Computer Sciences Corp., another leading federal contractor, in a \$940 million merger. Computer Sciences Corp. then took on a supervising role in the rendition flights through 2006, according to invoices and emails in the court files. CSC sold three DynCorp units in 2005 to Veritas Capital Fund, a private equity firm, for \$850 million, but retained ownership of other parts of the old company. Veritas in turn sold the restructured DynCorp — now known as DynCorp International — for about \$1 billion in 2010 to Cerebrus Capital Management, another private equity fund.

DynCorp International spokeswoman Ashley Burke said Wednesday that the company "has no involvement in or information about the litigation between Richmor and SportsFlight." She added that none of the DynCorp entities listed in the court files is owned by or has any affiliation with DynCorp International.

A Computer Sciences spokesman, Chris Grandis, said the company could not comment because of the ongoing lawsuit.

Under DynCorp's guidance, Richmor provided 10-passenger Gulfstream jets and flight crews for its government clients nearly once a month between May 2002 and January 2005, according to flight invoices. The maiden flight was a May 2002 trip from Washington to Guantanamo and back, but by year's end, the Gulfstreams were flying more complex routes that paralleled the suspected movements of high-value al-Qaida and other terrorist captives to black prison sites.

Every time the Gulfstream and other planes in Richmor's fleet took to the air, they carried one-page transit documents on State Department letterhead. The notices, known as "letters of public convenience," were addressed "to whom it may concern," stating that the jets should be treated as official flights and that "accompanying personnel are under contract with the U.S. government."

In trial testimony, Moss said the documents were provided from the government to

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DynCorp, which furnished them to Richmor. Richards said the letters were given to flight crews before they left on each flight, but declined to explain their use.

The notes, signed by a State Department administrative assistant, Terry A. Hogan, described the planes' travels as "global support for U.S. embassies worldwide."

The AP could not locate Hogan. No official with that name is currently listed in State's department-wide directory. A comprehensive 2004 State Department telephone directory contains no reference to Hogan, or variations of that name — despite records of four separate transit letters signed by Terry A. Hogan in January, March and April 2004. Several of the signatures on the diplomatic letters under Hogan's name were noticeably different.

Lawrence Wilkerson, who was chief of staff for Secretary of State Colin Powell from 2001 to 2005 during the Bush administration, said he was not familiar with the Hogan letters and had not been aware of any direct State Department involvement in the CIA's rendition program. Wilkerson said the multiple signatures would have raised questions about the documents' authenticity.

A State Department spokesman said the department has a policy of not commenting on "alleged intelligence activities."

In some cases, the notes added that the jets were not restricted by standard federal flight rules governing aircraft for hire. Although such exemptions are vague in practice, said Gregory Winton, a former Federal Aviation Administration lawyer, they might allow pilots to avoid normal FAA restrictions on the amount of duty hours they could fly — helpful on the long international missions such as those flown by the Gulfstreams.

In some circumstances, Winton added, such diplomatic cover letters might also be used to allow pilots to deviate from their flight plans and to win cooperation from foreign authorities after an international landing. Human rights groups and foreign critics have contended that some rendition flights obscured their real destinations when they dropped off detainees at airfields near the black sites.

"When you go overseas and show up in somebody's backyard in your private plane working for the U.S. government, that's a diplomacy issue, not a flight issue," Winton said.

The court files break down costs incurred for on-flight computers and phones, landing fees and even money spent for meals. A \$440 catering bill from Ohio-based Air Chef for an October 2003 flight from Washington to Guantanamo showed the Gulfstream was well stocked as it headed south. It carried fruit platters, assorted muffins and bagels, deli sandwiches, potato chips, cookies and two \$39 bottles of wine.

Sav Momgelli, Air Chef's vice president for sales, said the company had no idea it had been providing meals for secret government flights.

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"We don't ask questions," he said. "We're never told and we never ask. It could be a VIP, but to us it doesn't matter. It's just another customer."

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