



November 18, 2021

Via Federal Express

Freedom of Information Act Request
Central Intelligence Agency
Information and Privacy Coordinator
Washington, D.C. 20505

Freedom of Information Act Request
Federal Bureau of Investigation
FBI Records Information Dissemination Section
170 Marcel Drive
Winchester, VA 22602-4843

Freedom of Information Act Request
Gregory Koch
Director, Information Management Office
ATTN: FOIA/PA
Office of the Director of National Intelligence
Washington, D.C. 20511

Freedom of Information Act Request
U.S. Department of Defense
Defense Freedom of Information Division
1155 Defense Pentagon
Washington, D.C. 20301-1155

Freedom of Information Act Request
U.S. Department of State
Office of Information Programs and Services
2201 C Street N.W., Suite B266
Washington, D.C. 20520

Freedom of Information Act Request
FOIA Officer
Office of the General Counsel
Office of the Inspector General
U.S. Department of State
1700 North Moore Street, Suite 1400
Arlington, VA 22209

Re: Freedom of Information Act Request

To Whom It May Concern:

This is a request under the Freedom of Information Act, 5 U.S.C. Sec. 552 (“FOIA”), on behalf of Muslims for Human Rights (“MUHURI”), New York University School of Law’s Global Justice Clinic (“GJC”), and the Center for Constitutional Rights (“CCR”) (collectively “the Requesters”) for information regarding the policies and actions of the Central Intelligence Agency (“CIA”), the Federal Bureau of Investigation (“FBI”), the U.S. Department of Defense (“DOD”), the U.S. Department of State (“DOS”), and the Office of the Director of National Intelligence (“DNI”) regarding training, funding, and participation in abusive operations against Muslim residents of Kenya at the hands of Kenyan police and

paramilitary forces. Requesters seek this information in order to obtain justice for the individuals and families impacted.

We ask that you direct this request to all appropriate offices and components and/or departments within the CIA, DOD, DNI, FBI, DOS, including the Office of the Inspector General within each agency, and including but not limited to the following offices or components identified in Section A below.

Purpose of Request

This request seeks to obtain information for the Requesters and the public on a series of deaths and enforced disappearances reportedly carried out by U.S.-trained and backed Kenyan police and paramilitary forces targeting persons under the guise of a “war on terror.”¹ The request is specifically directed at obtaining information about reported human rights violations carried out by Kenyan police and paramilitary units set up, equipped, trained, funded, and/or guided by the CIA, DOD, DNI, FBI, and/or DOS.

Requesters are concerned that U.S. support for Kenyan police and paramilitary forces is directly contributing to violations of the human rights of Muslims in Kenya, particularly members of communities in the predominantly Muslim coastal region and in the city of Mombasa, where the government response to assaults by al-Shabaab has been characterized by serious abuses, including deaths, enforced disappearances, and torture. Requesters’ concern is based on public investigative journalism, reporting from human rights organizations, documents filed in lawsuits, and corroborating accounts from community organizers. Indeed, in a series of reports, the Open Society Justice Initiative, MUHURI, Haki Africa, and Human Rights Watch have reported on many years of human rights violations committed by the Anti-Terrorism Police Unit (“ATPU”) within the Kenya Police Service, as well as other specialized police units.² In addition to these investigative reports, MUHURI has in-depth knowledge of these cases based on its representation of the families of many individuals who have sought judicial intervention in such cases.

In August 2020, public investigative reporting disclosed that a secretive Kenyan paramilitary unit, the Rapid Response Team (“RRT”), has perpetuated many of these abuses under the covert support and guidance of the CIA, in partnership with Britain’s Secret Intelligence Service (“MI6”).³ Reports explain that in its sixteen years of operation, the 60-commando strong RRT has been responsible for an unknown

¹ Namir Shabibi, *Revealed: The CIA and MI6’s secret war in Kenya*, DAILY MAVERICK (Aug. 28, 2020). See also MUHURI, [SHADOW REPORT SUBMITTED IN RESPONSE TO PARAGRAPHS 190 & 191 OF THE KENYA STATE REPORT FOR THE 12TH AND 13TH PERIOD SUBMITTED TO THE AFRICAN COMMISSION IN APRIL 2020](#) (2021).

² See OPEN SOCIETY JUSTICE INITIATIVE, [WE’RE TIRED OF TAKING YOU TO THE COURT: HUMAN RIGHTS ABUSES BY KENYA’S ANTI-TERRORISM POLICE UNIT](#) (2013); HAKI AFRICA, [WHAT DO WE TELL THE FAMILIES?: KILLINGS AND DISAPPEARANCES IN THE COASTAL REGION OF KENYA, 2012-2016](#) (2016); HUMAN RIGHTS WATCH, [DEATHS AND DISAPPEARANCES ABUSES IN COUNTERTERRORISM OPERATIONS IN NAIROBI AND IN NORTHEASTERN KENYA](#) (2016).

³ Shabibi, *supra* note 1; Namir Shabibi, *The Militarisation of US/Africa Policy: How the CIA Came To Lead Deadly Counter-Terrorism Operations in Kenya*, DAILY MAVERICK (Aug. 28, 2020). See also Claire Lauterbach, [‘Tacit approval’ for killings: UK Foreign Office and police support to Kenyan anti-terror unit ‘operating like a criminal gang’ revealed](#), DAILY MAVERICK (Feb. 11, 2021).

number of “kill or capture” raids,⁴ including enforced disappearances⁵ and summary executions and killings, some based on mistaken identity.⁶

For example, reporting explains that in one pre-dawn raid in Mombasa on October 28, 2012, **Omar Faraj**, a butcher shop cashier, was fatally shot by RRT officers in front of his family when the unit mistook his home for that of Fuad Abubakar Manswab, the suspected planner of a disrupted 2011 terrorist attack.⁷ RRT “commandos broke down the door [to Mr. Faraj’s home] and fired tear gas inside.”⁸ The plainclothes officers, wearing body armor and carrying CIA-supplied M4 carbines, opened fire on Mr. Faraj and killed him.⁹ The incident was reported to Makupa Police Station, but the results of any investigation into the incident have not been released.¹⁰ A Kenyan police officer briefed on the matter confirmed that the RRT officers had mistakenly killed Omar Faraj, explaining, “The operation’s target was somewhere else, but there was some mix-up and they headed to the wrong house.”¹¹ The Kenyan government has not provided an official explanation of what happened to Mr. Faraj,¹² and the U.S. government has failed to acknowledge its involvement in this and similar abuses.

Numerous other reported killings and disappearances have been linked to Kenyan police and paramilitary forces:

- **Yasir Mahmoud Ahmed**, a successful contractor, businessman, and Lamu ambulance driver, was abducted by people believed to be security agents at Mkunumbi on the Lamu-Witu-Garsen road on June 19, 2021.¹³ Mr. Ahmed was returning from a visit with his mother-in-law in Mpeketoni when heavily armed men in security uniforms stopped the vehicle, forced everyone out of the car, and ordered Mr. Ahmed’s wife, son, and a third passenger to turn away while they kidnapped Mr. Ahmed.¹⁴ MUHURI submitted a habeas petition to the Malindi High Court, yet, despite a judge ordering police to release Mr. Ahmed,¹⁵ they have not.
- **Taimur Kariuki Hussein** was arrested by the ATPU officers on June 11, 2021 while on his way to Witu.¹⁶ Mr. Hussein was beaten by ATPU officers and charged with resisting arrest. These charges were later dropped in exchange for new “charges relating to terrorism.”¹⁷ After the

⁴ Shabibi, *supra* note 1. See also Lauterbach, *supra* note 3.

⁵ [Kenya: Disappearances, Deaths in Northeast](#), HUM. RTS. WATCH (July 20, 2016).

⁶ Shabibi, *supra* note 1.

⁷ Roopa Gogineni, [Kenya Police Face ‘Summary Killing’ Claims](#), AL JAZEERA (Nov. 25, 2012); Shabibi, *supra* note 1.

⁸ Shabibi, *supra* note 1.

⁹ *Id.*

¹⁰ Letter from Marie Ramtu, Exec. Dir., MUHURI, to Inspector Gen. of the Police (Nov. 9, 2021).

¹¹ Shabibi, *supra* note 1.

¹² Letter from Marie Ramtu to Inspector Gen. of the Police, *supra* note 10.

¹³ Kalume Kazungu, [Lamu Ambulance Driver Still Missing After Abduction](#), DAILY NATION (June 29, 2021).

¹⁴ *Id.*

¹⁵ Ernest Cornel, [MUHURI sues police, seeks release of abducted driver](#), MUHURI (June 30, 2021); Wycliffe Nyamasege, [IG Mutyambai Ordered to Produce Abducted Lamu Ambulance Driver Yasir Mahmoud](#), KAHAWA TUNGU (July 2021).

¹⁶ Akello Odenyo, [Family Seeks Answers for Kin Who Went Missing](#), STAR (July 10, 2021).

¹⁷ *Id.*

imposition of new charges, the ATPU transferred Hussein to Nairobi for “further investigations.”¹⁸ On June 21, 2021, Hussein appeared in Kahawa Law Courts, where a magistrate ordered his release. The ATPU requested an extra seven days to finish their “investigations,” and allegedly released Mr. Hussein on June 28, 2021.¹⁹ However, when Mr. Hussein’s family went to pick him up upon release, they were told that he had been released thirty minutes before.²⁰ Mr. Hussein has not been seen since, and his family believes that he was forcibly disappeared by ATPU officers.²¹ The family is requesting that ATPU officers release Mr. Hussein, dead or alive.²² When a judge requested the ATPU to provide video confirming Mr. Hussein’s alleged release, the group claimed that they routinely erase their video footage after 24 hours and thus had no evidence to document Mr. Hussein’s release.²³

- In May 2021, MUHURI submitted a habeas petition to the High Court of Mombasa on behalf of **Bakari Mwanyota Mbwana**, who was arrested by Kenyan police officers in February 2021 and disappeared to an undisclosed location.²⁴ In an affidavit submitted to the court from Mr. Mbwana’s wife, she stated that “on the night of 22nd/23rd February 2021 at about 1.00 a.m. while I was asleep with my husband and our children a squad of five (5) police officers in jungle green uniforms in the company of two (2) unarmed white men (*mzungus*) stormed our house by breaking down the door.”²⁵ Once inside, the police officers “roughed up” Mr. Mbwana, “tossed him to the ground and pinned him by stepping all over his body and handcuffed his hands to his back.”²⁶ They ransacked the house and took Mr. Mbwana’s mobile phone, after which the police officers frog-marched Mr. Mbwana into a white sedan and drove away with the two white men, telling his wife that they were taking him to Nairobi for questioning.²⁷ Mr. Mbwana has not been seen or heard from since his disappearance.

- **Abubakar Abdukadir (alias “Shebe”)** was abducted in Malindi by men in two vehicles while heading to his evening prayers at around 6 pm on November 17, 2017.²⁸ An attempt to identify the license plates on the vehicles yielded no results, implying that the registration numbers on those plates were fake. Shebe had previously been brought in for questioning at the Malindi police station on at least three separate occasions.²⁹ MUHURI submitted a habeas petition to the office of the Attorney General in this case.³⁰

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ Kalume Kazungu, [Family Agonises Over Missing Son Seized by ATPU Officers in Lamu](#), DAILY NATION (July 14, 2021).

²² Odenyo, *supra* note 16.

²³ *Id.*

²⁴ Ernest Cornel, [MUHURI sues IG Mutiyambai over Man’s Abduction, Detention Without Trial](#), MUHURI (June 10, 2021).

²⁵ [Mwachitseko Aff.](#) ¶ 6, May 31, 2021.

²⁶ [Pet. No. E027](#), ¶¶ 8-9, May 31, 2021.

²⁷ *Id.* ¶¶ 10-11.

²⁸ Brian Otieno, [Alarm in Mombasa over increasing cases of abduction](#), STAR (June 9, 2018).

²⁹ *Id.*

³⁰ [Pet. No. 168](#), June 18, 2018.

According to recent reporting, CIA personnel and contractors provide much of the pre-raid surveillance and target tracking intelligence relied upon by the RRT.³¹ Reporting also suggests that the partnership extends well beyond just choosing targets, as the CIA covertly provides the RRT with arms, and training – support that is seen by human rights organizations in Kenya and abroad as aiding and abetting unlawful police violence.³² CIA support for the secretive unit reportedly goes back to 2004, when officers from what would become the RRT were flown to the United States to receive elite training.³³ Claiming they were visiting the U.S. on a sports scholarship, the recruits were allegedly hosted by CIA trainers at Annapolis Naval Academy and on one occasion at the CIA’s Camp Peary, informally known as “The Farm,” where the officers received training in an array of paramilitary tactics, including surveillance and close-quarter combat, in courses titled “Renditions Operations Course” and “Advanced Disruption Operations.”³⁴

Over the past decade, the United States has greatly expanded its military and intelligence operations in Africa.³⁵ Since 2011, the U.S. Military has installed at least 14 drone operation bases from Burkina Faso to Seychelles, causing Former Defense Secretary Ashton Carter to acknowledge that several “spokes [are] out there on the continent and in the [Central and West Africa] region.”³⁶ In 2020, U.S. military planning documents revealed that the U.S. has over two dozen bases across the continent.³⁷ This network coincides with the U.S.’s multi-billion dollar security assistance support to local partners involved in counterterrorism operations.³⁸

MUHURI, NYU Law’s GJC, and CCR have an urgent interest in understanding the nature of U.S. support for Kenya’s RRT, APTU, and other police and paramilitary groups and their abusive operations. MUHURI especially is in need of this information as the community the organization serves continues to be directly impacted by these violations. Because the Requesters disseminate policy and educational materials to the public at no cost, information obtained from this FOIA request will better enable communities they represent as well as the general public to understand the past and present objectives and activities of U.S. government officials and agencies providing support for Kenya’s security forces despite their commission of human rights abuses. Furthermore, information uncovered will enable MUHURI and its partners to better advocate within Kenya and internationally for the return of

³¹ Shabibi, *supra* note 1.

³² Ostieno Namwaya, [Investigation Highlights Transparency Need on US, UK Roles in Kenyan Counterterrorism](#), HUM. RTS. WATCH (Mar. 24, 2021); Shabibi, *supra* note 1. On training, see also The Star Kenya, [US Embassy conducts counter-terrorism drill in Nairobi](#), YOUTUBE (Oct. 31, 2021).

³³ Shabibi, *supra* note 1.

³⁴ *Id.*

³⁵ See, e.g., Nick Turse, [Target Africa: The US Military’s Expanding Footprint in East Africa and the Arabian Peninsula](#), INTERCEPT (Oct. 15, 2015) [hereinafter Turse, *Target Africa*]. See also George Petras et al., [Exclusive: US counterterrorism operations touched 85 countries in the last 3 years alone](#), USA TODAY (Feb. 25, 2021); Nick Turse, [Pentagon’s Own Map of U.S. Bases in Africa Contradicts Its Claim of ‘Light’ Footprint](#), INTERCEPT (Feb. 27, 2020) [hereinafter Turse, *Pentagon’s Own Map*]; INTERNATIONAL CRISIS GROUP, [OVERKILL: REFORMING THE LEGAL BASIS FOR THE U.S. WAR ON TERROR](#) (2021); Stephanie Savell, [The ‘War on Terror’ Accelerates in Africa](#), AM. PROSPECT (Oct. 19, 2021); Shabibi, *supra* note 3.

³⁶ Turse, *Target Africa*, *supra* note 35.

³⁷ Turse, *Pentagon’s Own Map*, *supra* note 35.

³⁸ *Id.*

disappeared people and draw attention to the human rights violations committed by U.S.-backed Kenyan police and paramilitary forces.

At a time when police violence and accountability are at the top of local, national, and international political agendas, such transparency is of vital importance.

A. Definitions

- 1) **Record(s).** In this request, the term “record(s)” includes, but is not limited to, all Records or communications preserved in electronic (including metadata) or written form, such as correspondences, emails, documents, data, videotapes, audio tapes, faxes, files, guidance, guidelines, evaluations, instructions, analyses, memoranda, agreements, notes, orders, policies, procedures, legal opinions, protocols, reports, rules, talking points, technical manuals, technical specifications, training manuals, studies, or any other Record of any kind.
- 2) **Agreement(s).** In this request, the term “agreement(s)” includes, but is not limited to, any agreement, written or otherwise; communications; contracts and/or supplements, modifications or addendums to contracts or agreements.
- 3) **Communication(s).** In this request, the term “communication(s)” means the transmittal of information (in the forms of facts, ideas, inquiries or otherwise).
- 4) **Local Government(s).** In this request, the term “local government(s)” includes state/local government, any subdivisions thereof, including but not limited to, the Kenyan National Police Service, the ATPU, the RRT, the General Services Unit (“GSU”), the Kenyan State Law Office, the Kenyan National Intelligence Service, the Judiciary of Kenya and any subordinate magistrate courts; and any officials or individuals authorized on behalf of these entities; as well as any municipal corporations; tribal governments; and tribal business entities.
- 5) **Surveillance.** In this request, the term “surveillance” means any form of physical, nonphysical or virtual observation, monitoring, recording, or transcription, whether conducted by an individual or through automated means such as by software, satellites, aerial surveillance vehicles (“drones”) or mounted cameras.
- 6) **Multimedia.** In this request, the term “multimedia” includes, but is not limited to, digital and non-digital photographs, video recordings, and audio recordings, whether produced by an individual or through automated means such as by software, satellites, aerial surveillance vehicles (“drones”) or mounted cameras.
- 7) **Social Media.** In this request, the term “social media” includes, but is not limited to, widely used online forums such as Twitter, Facebook, Snapchat, Instagram, Periscope, and Reddit.
- 8) **Target Lists or Target Packages.** In this request the term “target list(s)” or “target packages” means any list(s) of individuals and associated data assembled and/or created by any government

agency or privately-contracted vendor for a government agency that is sent and/or used by any component of a government agency to identify, track, surveil and/or arrest people, including, but not limited to, so-called “disposition matrices.”³⁹

- 9) **Kenyan Police and Paramilitary Forces.** In this request, the term “Kenyan Police and Paramilitary Forces” includes, but is not limited to: the GSU, including but not limited to the Recce Company⁴⁰ and the RRT; the ATPU; the Crisis Response Team (“CRT”); the Special Program for Embassy Augmentation and Response team (“SPEAR”) and any subdivision thereof, and any foreign or domestic, state or non-state, Kenyan or non-Kenyan organizations or individuals who assist, train, or approve paramilitary groups in and for Relevant Operations or are contracted, formally or otherwise, to perform various functions within Relevant Operations inside or outside of Kenya.
- 10) **Relevant Operations.** In this request, the term “Relevant Operations” are the following, when perpetrated by U.S.-assisted Kenyan Police and Paramilitary Forces:
- a) deaths resulting from police or paramilitary use of force;
 - b) any apprehensions or holdings without warrant, bail, or court appearance;
 - c) concealed detention;
 - d) detention followed by denial of apprehension or detention;
 - e) detention in secret and/or in other countries and jurisdictions following apprehension by Kenyan authorities;
 - f) renditions, including informal transfers of individuals apprehended by Kenyan authorities to the custody of other government officials; and
 - g) any actions carried out pursuant to so-called “target lists,” “target packages,” and “kill lists.”
- 11) **CIA.** In this request, the term “CIA” refers to the Central Intelligence Agency and any internal directorates, offices, and subcomponents involved with Kenyan paramilitary forces and Relevant Operations, including, but not limited to, the Office of the Inspector General and the Directorate of Operations; any foreign or domestic intelligence functions, activities, or policies pursued or promulgated by collection management officers, operations officers, paramilitary operations officers or their supervisors (including any such persons in with a contractor status) within the Directorate of Operations or other directorates; any agency representatives to the National Counterintelligence Policy Board (“NCPB”), the National Counterintelligence and Security Center (“NCSC”), the Intelligence Policy Advisory (“IPA”), the National Security Council (“NSC”), and any other collaborative intelligence community (“IC”) panel or policy-review entity; any station chiefs, subordinates, or individuals in Kenya, North or East Africa, the U.S., or elsewhere who coordinate with U.S. and Kenyan ambassadors, local government officials, and other U.S. and foreign intelligence agencies, such as MI6, on Relevant Operations; and any field

³⁹ Greg Miller, [Plan for Hunting Terrorists Signals U.S. Intends to Keep Adding Names to Kill Lists](#), WASH. POST (Oct. 23, 2012).

⁴⁰ Nyambega Gisesa, [Secret GSU Team That Neutralises Terrorists](#), DAILY NATION (Aug. 30, 2020); Kris Jepson, [Kenya’s Counter-Terrorism Police Confess to Extrajudicial Killings](#), AL JAZEERA (last visited Nov. 14, 2021); Shabibi, *supra* note 1.

officers who develop relationships with, train, or participate in Kenyan Paramilitary Forces and Relevant Operations, in conjunction with the DNI, DOD, FBI, DOS, or otherwise.

- 12) **FBI.** In this request, the term “FBI” refers to the Federal Bureau of Investigations and any internal branches, offices, and subcomponents of the FBI involved with Kenyan Paramilitary Forces and Relevant Operations, including, but not limited to, the Counterterrorism Division and the Office of the Inspector General; any representatives to the Kenyan Joint-Terrorism Task Force (JTTF-K); any representatives to the NCPB, NCSC, IPA, NSC, and any other collaborative intelligence community (“IC”) panel or policy-review entity; any agents stationed in Kenya, North or East Africa, or elsewhere who coordinate with U.S. and Kenyan ambassadors, local government officials, the State Department, as well as foreign or domestic intelligence agencies, on Relevant Operations; and any field officers who develop relationships with, train, or participate in Kenyan Paramilitary Forces and Relevant Operations, in conjunction with the CIA, DNI, DOD, State Department, or otherwise.
- 13) **DNI.** In this request, the term “DNI” refers to the Office of the Director of National Intelligence, and includes, but is not limited to, the intelligence office and any information systems involved with Kenyan police and paramilitary forces and Relevant Operations, including, but not limited to, the National Counterintelligence Executive, the National Intelligence Council, the National Counterterrorism Center, the Crisis Response Team and the Office of the Inspector General; any representatives to the NCPB, NCSC, IPA, NSC, and any other collaborative intelligence community (“IC”) panel or policy-review entity; any agents stationed in Kenya, East Africa, or elsewhere who coordinate with U.S. and Kenyan ambassadors, local government officials, the State Department, as well as foreign or domestic intelligence agencies, on Relevant Operations; and any agents who develop relationships with, train, or participate in Kenyan Paramilitary Forces and Relevant Operations, in conjunction with the CIA, DOD, FBI, State Department, or otherwise.
- 14) **DOD.** In this request, the term “DOD” refers to the Department of Defense, and includes, but is not limited to the DOD and any offices involved with Kenyan police and paramilitary forces and Relevant operations, including, but not limited to, the Defense Intelligence Agency (“DIA”) and its corresponding Office of the Inspector General; the J2 Directorate for Intelligence as well any other directorates; the U.S. Africa Command Center (“AFRICOM”) and any other command centers, officers, generals, branches, or subcomponents of the DOD; any representatives to the NCPB, NCSC, IPA, NSC, and any other collaborative intelligence community (“IC”) panel or policy-review entity; any officers stationed in Kenya, North or East Africa, or elsewhere who coordinate with U.S. and Kenyan ambassadors, local government officials, the State Department, as well as foreign or domestic intelligence agencies, on Relevant Operations; and any officers who develop relationships with, train, or participate in Kenyan Paramilitary Forces and Relevant Operations, in conjunction with the CIA, DNI, FBI, State Department, or otherwise.
- 15) **State Department.** In this request, the term “State Department” includes but is not limited to, the department and any offices, suboffices, subcomponents, undersecretaries, or acting or official ambassadors involved in Kenyan police and paramilitary forces and Relevant Operations,

including, but not limited to, the Undersecretary for Arms Control and International Security Affairs; the Undersecretary for Civilian Security, Democracy, and Human Rights; the Office of Intelligence and Research (“INR”); and within the INR, the Assistant Secretary of Intelligence and Research, the Deputy Assistant Secretary for Intelligence Policy and Coordination, the Office of Intelligence Operations and Oversight, the Intelligence Policy and Information Sharing Center, the Office of Analysis for Strategic, Proliferation, and Military Issues, and the Office of Consular and Management Liaison; any visa approval for non-U.S. citizens related to Kenya paramilitary forces training and Relevant Operations; any representatives to the NCPB, NCSC, IPA, NSC, and any other collaborative intelligence community (“IC”) panel or policy-review entity; any officials or official/acting ambassadors stationed in Kenya, North or East Africa, or elsewhere who coordinate with local government officials, the State Department, as well as foreign or domestic intelligence agencies and station chiefs, on Relevant Operations; and any liaisons to the U.S. Congress or Kenyan government involved in the International Narcotics and Law Enforcement account; the Nonproliferation Antiterrorism, Demining and Related Programs; the Peacekeeping Operations Foreign Assistance account; and the Global Train and Equip Program.

16) State Department Office of the Inspector General. In this request, the term “State Department Inspector General” refers to the department branch that conducts internal audits, investigations, reports, or anything else related to Kenyan paramilitary forces and Relevant Operations. This office is addressed separately pursuant to State Department instructions online.

B. Requests for Information

I. Timeframe

1. For purposes of this FOIA request, requestors seek information related to Relevant Operations that occurred in Kenya from **January 1, 2003 to Present**.

II. Priority Cases

1. For purposes of this FOIA request and in addition to other information concerning operations within the timeframe, requestors seek Communications related to the enforced disappearances, arrests, and deaths of the following individuals in the following locations and jurisdiction:
 - A. **Omar Faraj** - executed on October 28, 2012 in Mombasa⁴¹
 - B. **Bakari Mwanyota Mbwana** - disappeared on February 23, 2021 in Likoni, Mombasa⁴²
 - C. **Abubakar Abdukadir** - disappeared on November 17, 2017 in Malindi⁴³
 - D. **Yasir Mahmoud Ahmed** - disappeared on June 19, 2021 near Mkunumbi⁴⁴

⁴¹ Shabibi, *supra* note 1.

⁴² [Pet. No. E027](#), ¶¶ 6-7, May 31, 2021.

⁴³ Otieno, *supra* note 28.

⁴⁴ [Pet No. 1](#), ¶¶ 2-3, June 30, 2021.

- E. **Taimur Kariuki Hussein** - charged in Lamu, disappeared in Nairobi on June 28, 2021.⁴⁵
- F. **Titus Nabiswa** - executed October 28/29, 2012 in Mombasa.⁴⁶
- G. **Kassim Omollo** - executed in June 2013 in Mombasa.⁴⁷
- H. **Mohamed (“Modi”) Mwatsumiro** - executed on August 30, 2019 in Ngombeni.⁴⁸
- I. **Jeremiah Onyango Okumu (alias “Dudah Black”)** - disappeared on June 26, 2012 in Mombasa.⁴⁹
- J. **Samir Khan** - disappeared on April 10, 2012 on Mombasa Island; found dead in Tsava National Park on August 13, 2012.⁵⁰
- K. **Jermaine Grant** - arrested in Mombasa 2011.⁵¹
- L. **Hassan Omondi Owiti** - executed on May 18, 2013 in Githurai Kimbo, Nairobi.⁵²
- M. **Shekha Wanjiru** - executed on May 18, 2013 in Githurai Kimbo, Nairobi.⁵³
- N. **Elgiva Bwire Oliacha** - arrested on October 14, 2011 in Kayole, Nairobi;⁵⁴ disappeared on October 28, 2021 in Nairobi.⁵⁵
- O. **Hassan Nandwa** - disappeared on October 28, 2021 in Nairobi.⁵⁶

III. Records Requested

1. Any and all records of Communications (as defined in Section A above) between the any of the agencies this Request is directed to (CIA, DOD, FBI, DNI, and/or DOS), concerning:
 - a. The U.S. government’s role in supporting the Relevant Operations by Kenyan police and paramilitary forces.
 - b. Any type of cooperation between Kenyan Police and Paramilitary Forces and the CIA, FBI, DOD, DNI, or State Department.
 - c. Any counterterrorism training, training courses, training budget(s) or training equipment of Kenyan Police and Paramilitary Forces by the CIA, FBI, or DOD:
 - d. The placement of individuals, groups, and/or organizations onto Target Lists or Target Packages used in support of, or contemplated for use in support of, Relevant Operations by Kenyan Police and Paramilitary Forces.

⁴⁵ Odenyo, *supra* note 16.

⁴⁶ HAKI AFRICA, *supra* note 2, at 33. *See also* Shabibi, *supra* note 1.

⁴⁷ HAKI AFRICA, *supra* note 2, at 34; Shabibi, *supra* note 1.

⁴⁸ Shabibi, *supra* note 1.

⁴⁹ [Kenya: Killings, Disappearances by Anti-Terror Police](#), HUM. RTS. WATCH (Aug. 18, 2014). *See also* Shabibi, *supra* note 1.

⁵⁰ HAKI AFRICA, *supra* note 2, at 8. *See also* Shabibi, *supra* note 1.

⁵¹ [Jermaine Grant: British man sentenced for ‘bomb making’](#), BBC (May 9, 2019). *See also* Shabibi, *supra* note 1.

⁵² [Kenya: Killings, Disappearances by Anti-Terror Police](#), *supra* note 49. *See also* Shabibi, *supra* note 1.

⁵³ [Kenya: Killings, Disappearances by Anti-Terror Police](#), *supra* note 49. *See also* Shabibi, *supra* note 1.

⁵⁴ Shabibi, *supra* note 3.

⁵⁵ Susan Muhindi, [AG in court over Nandwa and Bwire case](#), STAR (Nov. 11, 2021).

⁵⁶ Frederick Nzwili, [Kenyan Muslim leaders demand government action on unexplained disappearances](#), WASH. POST (Nov. 16, 2021).

- e. The surveillance of individuals, groups, and/or organizations in support of, or contemplated for use in support of, Relevant Operations by U.S.-supported Kenyan Police and Paramilitary Forces.
 - f. The proposed or actual deployment and use of U.S.-supplied arms, vehicles, equipment, and/or surveillance technology by Kenyan Police and Paramilitary Forces involved in Relevant Operations.
 - g. Any post-operations assessments of the Relevant Operations by Kenyan Police and Paramilitary Forces.
2. Any and all records of communications between any of the agencies this Request is directed to (the CIA, DOD, FBI, DNI, and/or DOS), concerning the individuals listed in “Priority Cases” above.
 3. Any and all emails between the CIA, DOD, FBI, DNI, and/or DOS, with the term:
 - a. “Recce” or “Recce Company” or “Recce Coy” or “Recce Squad” or “Rapid Response Team” or “RRT” or “Rendition Operations Team” or “Renditions Team” or “Rum Runners”

C. Format of Production

Please search for responsive records regardless of format, medium, or physical characteristics, and including electronic records. Please provide the requested documents in the following format:

- In PDF or TIF format;
- Via email, FTP and/or saved on a CD, CD-ROM or DVD;
- In electronically searchable format;
- Each record in a separately saved PDF file;
- “Parent-child” relationships maintained, meaning that the requester must be able to identify the attachments with emails
- Any data records in native format (i.e. Excel spreadsheets in Excel)
- Emails should include BCC and any other hidden fields;
- With any other metadata preserved

D. The Requesters

Muslims for Human Rights (“MUHURI”) is a non-governmental organization (“NGO”) based on the Kenyan Coast founded in 1997 to promote the protection and enjoyment of human rights for all. To that end, Muhuri.org exists to provide a platform for grassroots empowerment for marginalized and vulnerable persons within the Coastal region of Kenya to realize and enjoy these fundamental human rights provided in law. Using the internet, MUHURI builds a collaborative space between state and non-state actors to achieve community peace building and development, as well as gender parity, demarginalization, and fairness and equity. MUHURI keeps the public additionally informed of human rights violations in the Northern part of Kenya and provides legal advocacy for victims of extrajudicial operations that include murder, disappearance, and rendition of primarily Muslim civilians. Finally,

MUHURI brings attention to the needs and concerns of the public by holding coordinated events in different parts of the country, pushing for news media to cover highlighted issues, partnering with international partners to document human rights abuses, and more. MUHURI has no commercial interest in the requested documents and will transmit the requested information on its website and social media to inform the public. The requested materials may also be used as the foundation for op-eds and other traditional media advocacy.

The Center for Constitutional Rights (“CCR”) is a non-profit, public interest, legal, and public education organization that engages in litigation, public advocacy, and the production of publications in the fields of civil and international human rights. CCR’s diverse dockets include litigation and advocacy around human rights abuses, and international racial and ethnic profiling. CCR is a member of several networks nationally and provides legal support to civil rights movements. One of CCR’s primary activities is the publication of newsletters, know-your-rights handbooks, legal analysis of current immigration law issues, and other similar materials for public dissemination. These and other materials are available through CCR’s Development, Communications, and Advocacy Departments. CCR operates a website, <http://ccrjustice.org>, which addresses the issues on which the Center works. The website includes material on topical civil and racial justice rights issues and material concerning CCR’s work. All of this material is freely available to the public. In addition, CCR regularly issues press releases and a regularly updated blog, as well as “action alerts” sent to over 50,000 members that notify supporters and the general public about developments and operations pertaining to CCR’s work. CCR staff members often serve as sources for journalist and media outlets, including on issues related to Muslim profiling, torture, war crimes, and militarism, racial injustice, and more.

The Global Justice Clinic (“GJC”) is an official part of NYU School of Law’s law clinical program and its legal entity, Washington Square Legal Services, Inc.⁵⁷ GJC partners with community-based organizations to prevent and redress violations of international human rights law, including abuses against Muslim communities in the context of the so-called “War on Terror” and “countering violent extremism” operations. GJC represents victims and survivors of torture and enforced disappearance before domestic and international courts and tribunals. Using a legal empowerment approach, GJC also creates know-your-rights manuals, reports, and advocacy materials that are made public through its website, webinars, and in-person trainings. GJC promotes redress, accountability, and transparency concerning torture, arbitrary detention, and other violations of human rights through legal advocacy, public education, and research and publication. It maintains a website, produces press releases, and works with journalists to increase public engagement on human rights issues, especially those disproportionately impacting communities experiencing systemic oppression and global injustice.

E. Fee Waiver

The Requesters are entitled to a fee waiver pursuant to 5 U.S.C. § 552 (a)(4)(A)(iii), 6 C.F.R. § 5.11(k), 32 CFR § 1900.13(b), 22 CFR § 171.16(a), 32 CFR § 286.12(l) and 28 C.F.R. § 16.10(k) on the grounds that “disclosure of the requested records is in the public interest because it is likely to contribute significantly to the public understanding of the activities or operations of the government and is not

⁵⁷ Communications from NYU’s clinical programs do not represent the views, if any, of New York University.

primarily in the commercial interest of the requester[s].” 5 U.S.C. § 552(a)(4)(A)(iii); *see also* 6 C.F.R. § 5.11(k) (records furnished by DHS without charge if the information is in the public interest, and disclosure is not in the commercial interest of the institution); 28 C.F.R. § 16.10 (k) (records furnished by the DOJ without charge if the information is in the public interest, and disclosure is not in the commercial interest of the institution). *See, e.g., McClellan Ecological v. Carlucci*, 835 F.2d 1282, 1285 (9th Cir. 1987). Requesters meet the requirements for a fee waiver because the subject of the request concerns the operations or activities of the government; the disclosure of the information is likely to contribute to a significant public understanding of government operations or activities due to the requesters’ expertise in the subject area and ability to convey the information; the Requesters’ primary interest is in disclosure; and they have no commercial interest in the information. In addition, pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(II), 6 C.F.R. § 5.11(k)(2)(iii), (k)(3)(ii), and 28 C.F.R. § 16.10(k)(2)(iii), (k)(3)(ii), the Requesters qualify as a “representatives of the news media,” defined as “any person or entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience.” 5 U.S.C. § 552(a)(4)(A)(ii); *see also* 6 C.F.R. § 5.11(b)(6); 28 C.F.R. § 16.10(b)(6); 32 CFR § 286.12(b)(6); 22 CFR § 171.14(b)(5)(ii)(C); 32 CFR § 1900.02(h)(3).

As described in Part D above, the Requesters are non-profit organizations dedicated to civil rights and human rights, and have a proven track-record of compiling and disseminating information and reports to the public about government functions and activities, including the government’s record and position on police violence, torture by intelligence agencies and contractors, Muslim profiling, militarism and war crimes, and human rights abuses.⁵⁸ The Requesters have undertaken this work in the public interest and not for any private commercial interest. Similarly, the primary purpose of this FOIA request is to obtain information to further the public’s understanding of government actions and policies in regards to the U.S. government’s involvement with Relevant Operations in Kenya. Access to this information is crucial for the Requesters and the communities they serve to evaluate governmental actions and their potential detrimental effects.

As stated above, the Requesters have no commercial interest in this matter. The Requesters will make any information that they receive as a result of this FOIA request available to the public, including the press, at no cost. Disclosure in this case therefore meets the statutory criteria, and a fee waiver would fulfill Congress’ legislative intent in amending FOIA. *See Judicial Watch Inc. v. Rossotti*, 326 F.3d 1309 (D.C. Cir. 2003) (“Congress amended FOIA to ensure that it be ‘liberally construed in favor of waivers of noncommercial requesters.’”).

In the alternative, we request a limitation of processing fees pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(II). (“[F]ees shall be limited to reasonable standard charges for document duplication when records are not sought for commercial use and the request is made by . . . a representative of the news media.”). *See also* 6 C.F.R. § 5.11(d)(1); 28 C.F.R. § 16.10(d)(1). If no fee waiver is granted and the fees exceed \$250.00, please contact the Requesters’ to obtain consent to incur additional fees.

F. Expedited Processing

⁵⁸ *See* <http://ccrjustice.org>, <https://chrgj.org/global-justice-clinic/>, <http://muhuri.org>

The Requesters are entitled to expedited processing of this request because there is a “compelling need” for the information. 5 U.S.C. § 552(a)(6)(E)(i)(I). A “compelling need” is established when there exists an “urgency to inform the public about an actual or alleged Federal Government activity,” when the requester is a “person primarily engaged in disseminating information.” 6 C.F.R. § 5.5(d)(ii); 32 CFR § 1900.34(a); 22 CFR § 171.11(f); 32 CFR § 286.8(e); 28 C.F.R. § 16.5(e)(ii).

There is an urgent need to inform the public of the policies and decision-making regarding U.S. and Kenyan government involvement in the training and conduct of Relevant Operations by Kenyan police and paramilitary forces. With no end to these human rights abuses in sight, MUHURI continues to provide support to individuals who were secretly detained unconstitutionally without bail or court appearance. Indeed, in May 2021, MUHURI filed an action on behalf of Bakari Mwanyota Mbwana, who has not been seen by his family since February 2021, when police officers stormed into his family’s home, conducted a search, confiscated he and his wife’s mobile phones, roughed him up, and led him away in handcuffs.⁵⁹ MUHURI has also filed actions and sought information on behalf of Omar Faraj,⁶⁰ Yasir Mahmoud Ahmed,⁶¹ Taimur Kariuki Hussein,⁶² and Abubakar Abdulkadir.⁶³ These cases show the critical and immediate need for greater transparency concerning U.S. involvement in these actions, especially for MUHURI and the Kenyan communities they represent. Furthermore, over the past year, interest has surged with the publication of news concerning these human rights abuses in the international media.⁶⁴ Members of the public, particularly those interested in participating in or supporting victims of these human rights abuses, have a right to know the level of government involvement in these abuses and the potential effects on their privacy and security.

As described in Part D above, MUHURI is primarily engaged in disseminating information and community advocacy in support of fundamental human rights and the rule of law. MUHURI has a proven track-record of compiling and disseminating information and reports to the public about government functions and activities, including the government’s record on human rights violations. MUHURI will use its press and media connections within Kenya as well as internationally as well as its considerable web infrastructure to publicly disseminate information received from this request on a national scale. Based on the findings of this request, MUHURI will also engage directly with groups and communities found to be targeted, attacked, or kidnapped for their alleged association and racial and ethnic identity. Furthermore, both CCR will also disseminate any records released to its broad membership base for no cost as well.

In addition, the agencies grant expedited processing where the subject of the request is a “matter of widespread and exceptional media interest in which there exist possible questions about the government’s integrity that affect public confidence.” 28 C.F.R. § 16.5(e) (iv). As discussed in the “Background” section above, there is widespread and exceptional media interest in these human rights

⁵⁹ [Pet. No. E027](#), ¶¶ 8-11, May 30, 2021.

⁶⁰ Letter from Marie Ramtu to Inspector Gen. of the Police, *supra* note 10.

⁶¹ Cornel, *supra* note 15.

⁶² [Misc. Crim. App. No. E212](#), July 8, 2021.

⁶³ [Pet. No. 168](#), June 18, 2018.

⁶⁴ Namir Shabibi, Editorial, [The Militarisation of US/Africa Policy: How the CIA Came To Lead Deadly Counter-Terrorism Operations in Kenya](#), ELEPHANT (Feb. 17, 2021); Shabibi, *supra* note 1.

violations, in ongoing U.S. militarism and lack of accountability, and on human rights abuses of oppressed citizens worldwide. The Kenyan and U.S. government's secrecy in regards to ongoing violence and disappearances, along with silence over abuses of fundamental human rights protected by international law calls into question government integrity and affects public confidence regarding government accountability.

G. Certification and Conclusion

Requesters certify that the above information is true and correct to the best of the Requesters' knowledge. *See* 6 C.F.R. § 5.5(d)(3); 32 CFR § 1900.34; 22 CFR § 171.11(f); 32 CFR § 286.8(e); 28 C.F.R. § 16.5(e)(3). If this Request is denied in whole or in part, the Requesters ask that the CIA, DOD, DNI, FBI, and State Department to justify all deletions by reference to specific exemptions of FOIA. The Requesters expects these agencies to release all segregable portions of otherwise exempt material, and reserves the right to appeal a decision to withhold any records or to deny the within application for expedited processing and waiver of fees.

Please furnish all applicable Records and correspondence in electronic format as specified above to:

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Center for Constitutional Rights
666 Broadway, Floor 7
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212-614-6470

Thank you,

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