

I U U I I U N N N

IRAQI REFUGEE ASSISTANCE PROJECT
Urban Justice Center
123 William Street, 16th Floor
New York, NY 10038,

Plaintiff,

v.

No. _____

DEPARTMENT OF DEFENSE
100 Defense Pentagon
Washington, DC 20301-1000,

DEPARTMENT OF STATE
2201 C Street, N.W.
Washington, DC 20520,

Defendants.

I I IU I N N N

1. This is an action under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552 #S”/#&’, seeking injunctive and other appropriate relief and the immediate processing and release of agency records requested by the Iraqi Refugee Assistance Project (“IRAP”) from Defendants U.S. Department of Defense (“DOD”) and U.S. Department of State (“DOS”).

2. On September 7, 2010, Plaintiff submitted FOIA requests (“2010 Requests”) to the DOS and three components of the DOD—the Office of Inspector General (“DOD-IG”), the Defense Contract Management Agency (“DCMA”), and Central Command (“CENTCOM”)—requesting the release of records relating to the human trafficking and/or labor abuses of third country nationals (“TCNs”) on U.S. military bases in Iraq and Afghanistan since January 2006.

3. Specifically, the 2010 Requests sought from the DOD-IG and the DOS the release of records relating to formal or informal complaint mechanisms, investigations and/or prosecutions, applicable laws, legal or administrative remedies, and training materials relating to human trafficking and/or labor abuses of TCNs on U.S. military bases in Iraq and Afghanistan since January 2006. The 2010 Requests sought from the DCMA the release of records relating to quality assurance inspections, oversight mechanisms, trafficking and/or labor complaints, and benefits provided to subcontracted workers as such records related to the human trafficking and/or labor abuses of TCNs on U.S. military bases in Iraq and Afghanistan since January 2006. The 2010 Requests also sought from CENTCOM the release of records relating to the basis for its jurisdiction over contracted workers, trafficking and/or labor complaints, and training materials as such records related to the human trafficking and/or labor abuses of TCNs on U.S. military bases in Iraq and Afghanistan since January 2006.

4. In its requests, Plaintiff sought a waiver of search, review, and duplication fees. Defendant DCMA granted this request. Defendant DOD-IG determined that Plaintiff did not qualify for a fee waiver, and it denied further consideration because Plaintiff had not made a commitment to pay fees. Defendant CENTCOM denied a fee waiver after determining that the information sought by Plaintiff would “not contribute ‘significantly’ to public understanding of government operations or

Iraq and Afghanistan. Little public information is available detailing the work and living conditions of TCNs, despite their numbers equaling or exceeding that of U.S. soldiers. Media reports have brought to light a host of abuses suffered by these men and women, including trafficking, forced labor, fraud, squalid living conditions, and sexual assault. The exact nature and extent of these abuses and any measures taken to remedy them remain unknown. Release of the requested records is critical for ascertaining the current conditions of TCNs and providing a basis for assessing what measures need to

Iraq. I

three months. (###'=#', Adam Ashton, N6D6\$- . :"; 10\$. -8\$1. "60"? . -&"O1D>%"P1.#6=0" I1.B#. %"60" I - .#*19%#%C"McClatchy Newspapers, Dec. 2, 2008, -7-6D-FD#" - \$
<http://www.mcclatchydc.com/2008/12/02/56910/military-contractor-in-iraq-holds.html>. These men had their passports confiscated, had no money, and had no place to work, despite having been brought into the country for Najlaa's service contracts with U.S. military bases. Reports also noted that the workers had paid fees of up to \$2,000 each for jobs that they had been told would pay \$600 to \$800 per month.

19. Najlaa's treatment of the Asian workers it held violated 2006 military regulations prohibiting excessive fees, prohibiting the seizure of passports, and establishing certain basic living conditions for TCNs. (###"General Casey, 5.#7#0\$610"12"). -2268B60="60"5#. %10%"NQPR?, MNF-I FRAGO 06-188 (April 2006).

20. Most recently, a June 2011 article in)*#"Q#S"TI.B#. featured the story of a group of Fijian women who had been trafficked on to U.S. military bases in Iraq to work as beauticians. They had been hired in Fiji by a local recruitment agency to work at luxury hotels in Dubai. (###" Sarah Stillman,)*#"?076%6FD#"<. / :., New Yorker, June 6, 2011, at 56."Upon their arrival in Dubai, the women were informed that they were actually bound for Iraq. Many of the women, who had taken out loans to cover recruiting fees, felt compelled to travel to Iraq despite the danger to their lives. In addition, officials from the recruitment company reportedly threatened some of the women with more than \$1,000 in early termination fees if they returned home. Once in Iraq, the Fijian women's contracts were reduced to a fraction of what they had been promised in Fiji. Before being paid at all, the women were all required to sign contracts stating that they would work twelve hours a day, seven days a week with overtime hours that they were unable to refuse. (###"Sarah Stillman, 5.6 / - . :"(19.8#%@")*#"?076%6FD#"<. / :., NewYorker.com (June 2,

2011), <http://www.newyorker.com/online/blogs/newsdesk/2011/06/primary-sources-the-invisible-army.html>. Beyond these labor abuses, one Fijian woman was repeatedly sexually assaulted by her employer in Iraq and, when she turned to the U.S. military authorities for assistance, could find no one to address her claims.

21. Stillman's article reports on a number of other disturbing facts. In the first half of 2010, contractor deaths were estimated at 53% of all deaths on U.S. bases in Iraq—a number that many believe is significantly underestimated due to underreporting by contractors. In addition, Stillman reports that when certain individuals attempted to bring abuses to light, they were reprimanded while the abuses remained unaddressed.

22. In the face of mounting reports of abuse, the U.S. government adopted some measures aimed at preventing trafficking, stemming other abuses and generally improving the overall working and living conditions of TCNs. In April 2006, following the deaths of the Nepali workers, General Casey, then commanding general of Iraq, issued a memorandum that required all TCNs to retain their passports. (General Casey, 5. #7#0\$610"12"). - 2268B60="60" 5#.%10%"E, /

The Government's Response to the 2010 Requests

28. The 2010 Requests have been pending for ten

§ 552(b)(2), (b)(3), and (b)(6). Plaintiff also appealed the non-responsiveness of the partial release to portions of Plaintiff's 2010 Request.

37. As of the date of this filing, Plaintiff has yet to receive a response to the adverse fee waiver determination from CENTCOM's FOIA officer or CENTCOM's appellate body.

+##O> -O\$"+ E (

38. On October 14, 2010, Defendant DOS sent Plaintiff a letter acknowledging receipt of the 2010 Request and deferring the determination of a fee waiver until Defendant DOS was able to determine whether the release of the responsive records was in the public interest. Nine months after this initial acknowledgement, Plaintiff has yet to receive a single document from the DOS. The DOS has not articulated any basis for the delay or withholding of responsive records.

First Cause of Action:
Violation of the FOIA for Failure to Promptly Make
Available the Records Sought by Plaintiff's Requests

39. Defendants' failure to promptly make available the records sought by the 2010 Requests violates FOIA, 5 U.S.C. § 552(a)(3)(A), and Defendants' corresponding regulations.

Second Cause of Action:
Violation of the FOIA for Failure to Make Reasonable
Efforts to Search Records Sought by Plaintiff's Requests

40. Defendants' failure to make reasonable efforts to search for records sought by the 2010 Requests violates FOIA, 5 U.S.C. § 552(a)(3)(C), and Defendants corresponding regulations.

Third Cause of Action:
Violation of the FOIA for Failure to Expedite
the Processing of Plaintiff's Requests

41. Defendants' failure to expedite the processing of Plaintiff's 2010 Requests
violates FOIA, 5 U.S.C. § 552(a)(6)(A)(i) / P g t P s

B. Enjoin Defendants from charging Plaintiff search, review, or duplication fees for processing of the 2010 Requests;

C. Award Plaintiff its costs and reasonable attorneys' fees incurred in this action; and

D. ~~Grant such other relief as the Court may deem just and proper~~