



October 2023

HUMAN RIGHTS

Agency Actions Needed to Address Harassment of Dissidents and Other Tactics of Transnational Repression in the U.S.

GAO Highlights

Highlights of [GAO-24-106183](#), a report to congressional requesters

Why GAO Did This Study

Recent high-profile acts of TNR against U.S.-based persons highlight TNR's threat to national security. Some advocates and members of Congress have called for more accountability for foreign governments that benefit from U.S. arms transfers yet engage in TNR against U.S.-based persons.

GAO was asked to review federal agency efforts to address TNR using available tools, including Section 6 of the AECA. This report examines the extent to which: (1) agencies have collected and analyzed information about the nature and prevalence of TNR against U.S.-based persons; (2) agencies have used available tools to hold individuals accountable for TNR against U.S.-based persons; and (3) the U.S. government has implemented Section 6 of the AECA.

GAO analyzed documents and interviewed officials from nongovernmental organizations and the Departments of State, Defense, Justice, and Homeland Security.

What GAO Recommends

Congress should consider amending the reporting requirement in Section 6 of the AECA to improve visibility into agency or administration decision-making regarding the implementation of the statute. GAO is also making four recommendations, including that DOJ take additional steps to enhance the common understanding of TNR and develop a department-wide position on any gaps in legislation for addressing TNR. DOJ agreed to take additional steps to enhance common understanding of TNR and said it will consider analyzing potential gaps in legislation for addressing TNR.

View [GAO-24-106183](#). For more information, contact Chelsea Kenney at (202) 512-2964 or kenneyc@gao.gov.

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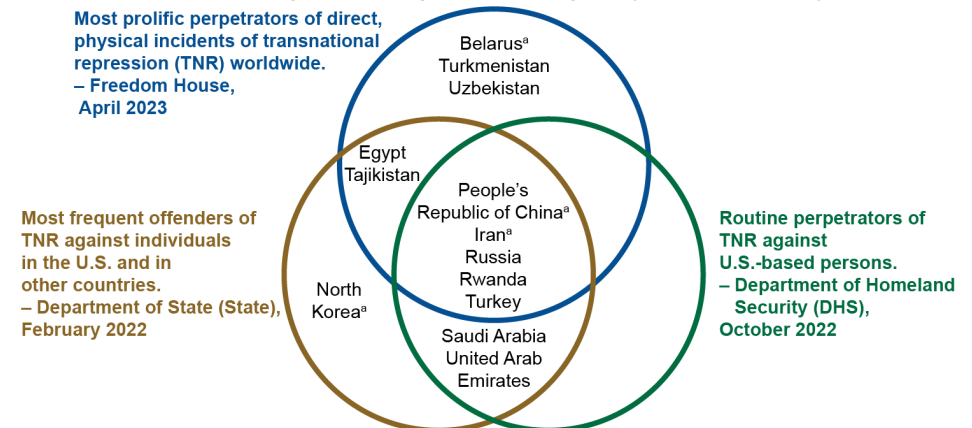
HUMAN RIGHTS:

Agency Actions Needed to Address Harassment of Dissidents and Other Tactics of Transnational Repression in the U.S.

What GAO Found

Foreign governments may use various tactics—from spyware to assault—to silence U.S.-based dissidents. Agencies have worked to track such incidents, generally known as transnational repression (TNR). Agencies have reported on foreign governments known to engage in TNR worldwide, some of which receive U.S. arms transfers. However, officials said that a lack of common understanding of TNR hinders efforts to fully track incidents against U.S.-based persons.

Foreign Governments that Received U.S. Arms Transfers in Fiscal Year 2017-2021 and/or Were Named as Transnational Repression Perpetrators in Reports (Issued 2022–2023)



Sources: GAO analysis of Freedom House, State, and DHS reports, and Department of Defense data. | GAO-24-106183

^aDid not receive any U.S. arms transfers in fiscal year 2017-2021.

Note: For more details, see figures 2 and 4 in GAO-24-106183.

U.S. law does not specifically criminalize TNR, but agencies have used existing tools to penalize individuals for TNR against U.S.-based persons. State imposed visa restrictions on 76 Saudis believed to have been engaged in acts of TNR, including the murder of U.S. resident Jamal Khashoggi. FBI officials said gaps in U.S. law limit their ability to counter TNR, but DOJ has not developed a DOJ-wide position on the sufficiency of existing laws. Developing such a position may help Congress determine whether new legislation is needed to address TNR.

Section 6 of the Arms Export Control Act (AECA)—which prohibits arms transfers to countries that the President determines are engaged in a consistent pattern of acts of intimidation or harassment against individuals in the U.S.—offers a way to hold some governments accountable for TNR against individuals in the U.S. However, no such determinations have been made, and none of the agencies we spoke with had performed any work related to implementing the statute. Because Section 6 only requires reporting following a positive determination, it is unclear the extent to which the law has ever been considered. Amending its reporting requirement could improve visibility into how, if at all, the law is used.

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Abbreviations

AECA	Arms Export Control Act, as amended
CAT	Conventional Arms Transfer
DCS	direct commercial sales
DHS	Department of Homeland Security
DOD	Department of Defense
DOJ	Department of Justice
FBI	Federal Bureau of Investigation
FMF	Foreign Military Financing
FMS	Foreign Military Sales
INTERPOL	International Criminal Police Organization
NGO	nongovernmental organization
NSC	National Security Council
OMB	Office of Management and Budget
PRC	People's Republic of China
TNR	transnational repression

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October 3, 2023

Congressional Requestors

High-profile incidents—such as the 2018 murder of Jamal Khashoggi, U.S. permanent resident, journalist, and vocal critic of Saudi authorities by Saudi agents in Turkey—highlight the threat of transnational repression (TNR) to U.S. national security. TNR is when governments, either directly or through others, reach across borders to silence dissent from diasporas and exiles, including journalists, human rights defenders, civil society activists, and political opponents.¹ Abductions, assassinations, and digital threats are a few of the many ways governments may engage in TNR. They may commit these acts directly against their own citizens located in a foreign country, or indirectly—for example, by targeting family members or other connections located in the government’s jurisdiction.

Governments may engage in these repressive acts because they view criticism as an attempt to undermine their government’s global standing, erode control over the domestic populace, and exploit internal political fractures. Some of these governments may be invested in maintaining their own security and stability and upholding their official domestic narrative. They may also perceive significant economic and political incentives to silence dissent, such as maintaining a strong domestic and global image to enhance foreign policy and trade objectives.

Cases involving TNR on U.S. soil have shown that these incidents do not only take place abroad. In April 2023, for example, the Department of Justice (DOJ) announced charges against 40 officers of the People’s Republic of China (PRC) national police for allegedly harassing and intimidating Chinese nationals in the U.S. whose political views and actions are disfavored by the PRC government.

¹Although definitions of TNR can and do differ, for this report, we use the definition of TNR developed by Freedom House—a nongovernmental organization (NGO) that conducts research and advocacy on TNR, among other things—unless otherwise noted. Freedom House defines TNR as governments reaching across borders to silence dissent among diasporas and exiles, including through assassinations, illegal deportations, abductions, digital threats, family intimidation, and International Criminal Police Organization (INTERPOL) abuse (i.e., when governments misuse INTERPOL’s notification system to circulate Red Notices or diffusions seeking the location and arrest of individuals based on illegitimate or politically motivated criminal charges). Agency officials we spoke with for the report told us that their agencies have based any existing internal definitions on Freedom House’s.

Some human rights advocates and members of Congress have recently called for increased accountability for foreign governments that engage in TNR, including for partner countries that benefit from U.S. arms transfers.² For example, 14 human rights organizations sent a letter to the Secretary of State in April 2021 calling on the administration not to waive human rights conditions on military aid to Egypt in light of the country's reported human rights violations, including certain acts of TNR.³ Similarly, 31 members of Congress sent a letter to the Secretary of State in April 2022 stating that Saudi Arabia, including its Crown Prince specifically, have been shielded from accountability for their TNR and other human rights violations, inviting further abuses.

Under U.S. law, arms transfers to any country the President determines to be involved in a consistent pattern of activities that could be considered TNR against people in the U.S. are prohibited. Specifically, Section 6 of the Arms Export Control Act (AECA) of 1976, as codified, states that "no letters of offer may be issued, no credits or guarantees may be extended, and no export licenses may be issued under this chapter with respect to any country determined by the President to be engaged in a consistent pattern of acts of intimidation or harassment directed against individuals in the United States."⁴ It further requires the President to report any such determination promptly to certain members and committees of Congress.

You asked us to review federal agency efforts to address TNR using available tools, including Section 6 of the AECA. This report examines the

²For this report, arms transfers include defense articles and services authorized for sale through direct commercial sales as well as defense articles and services that the U.S. government sells to foreign recipients through the Foreign Military Sales program (including U.S.-funded items provided through Foreign Military Financing and other U.S.-funded programs). They do not include transfers under the Department of Commerce's jurisdiction, including less sensitive munitions items, dual-use items, and basic commercial items.

³The letter states that the U.S. continuing to waive these conditions, as past administrations had, "signals that the Egyptian government will not be held accountable for its human rights abuses and that it can continue to violate human rights standards without consequence."

⁴22 U.S.C. § 2756 (codifying Section 6 of the AECA, as amended). Relating to this statute, Letters of Offer and Acceptance are the legal instruments the U.S. government uses to sell defense articles to foreign recipients; credits or guarantees are loans and loan guarantees the U.S. government extends for the sale of defense articles and services; and export licenses permit the export of defense articles and services, which are controlled under the International Traffic in Arms Regulations, which contains the U.S. Munitions List. 22 C.F.R. §§ 120-130. Section 6 of the AECA, as amended, requires the President to report any such determination to the Speaker of the House of Representatives, the Committee on Foreign Affairs of the House of Representatives, and to the chairman of the Committee on Foreign Relations of the Senate.

extent to which: (1) U.S. agencies have collected and analyzed information about the nature and prevalence of TNR against U.S.-based persons; (2) U.S. agencies have used available tools to hold individuals accountable for TNR against U.S.-based persons; and (3) the U.S. government has implemented Section 6 of the AECA.⁵

To examine the extent to which U.S. agencies have collected and analyzed information about the nature and extent of TNR directed against U.S.-based persons, we reviewed documentation from agencies and nongovernmental organizations (NGOs) to describe agency efforts to collect and assess information about TNR, and their findings. We interviewed officials from State, DOJ, the Federal Bureau of Investigation (FBI), and the Department of Homeland Security (DHS) to understand these efforts and challenges agencies face. We compared these agency efforts with federal internal control standards related to using quality information and GAO's Leading Practices to Enhance Interagency Collaboration related to bridging organizational cultures.

To examine the extent to which U.S. agencies have used available tools to hold individuals accountable for TNR against U.S.-based persons, including to describe those tools, we reviewed federal policies and programs that State officials told us they have used to penalize individual TNR perpetrators. We interviewed State officials to determine how they have used these tools. We also reviewed examples of publicly available indictments and press releases on FBI's TNR webpage, and interviewed DOJ and FBI officials, to determine what types of statutes they have used to investigate and prosecute TNR perpetrators and any related challenges. We compared these efforts with federal internal control standards related to responding to risks and communicating quality information.

To examine the extent to which the U.S. government has implemented Section 6 of the AECA, we interviewed State and Department of Defense (DOD) officials who oversee the U.S. arms transfer process, and reviewed Executive Orders, Presidential certifications, and U.S. arms transfer policies to determine whether any Presidents have made a determination pursuant to Section 6. We interviewed State, DOD, DOJ, DHS, and Commerce officials, and reviewed historical Congressional records to determine whether any agencies have any planned, ongoing, or past efforts related to implementing Section 6 and compared those

⁵For this report, U.S.-based persons include any U.S. citizen or noncitizen admitted for permanent residence in the U.S., regardless of location; as well as individuals who do not fall into these categories, but who are within the geographic borders of the U.S. (e.g., asylum seekers).

efforts with federal internal control standards for using quality information. We also analyzed State and DOD data to describe the financial value of the top 25 U.S. arms transfer recipients from fiscal years 2017 through 2021. We took steps to test the completeness and accuracy of the funding data and found the data sufficiently reliable for the purposes of describing the financial value of the top 25 recipients of FMS sales and DCS authorizations from fiscal years 2017 through 2021. A more detailed description of our scope and methodology is included in appendix I.

We conducted this performance audit from August 2022 to October 2023 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

Transnational Repression Tactics

TNR can include direct physical acts, such as assassination or assault; nonphysical acts, such as digital threats on social media; and manipulation of legal processes, such as International Criminal Police Organization (INTERPOL) abuse or denial of consular services. See Table 1 for descriptions of these and other TNR tactics.

Table 1: Examples of Transnational Repression Tactics

Tactic	Description
Assassination	Murder or attempted murder.
Assault	Physical attack.
Coercion by proxy	Threats or physical actions against a family member, loved one, or associate of the targeted exile that are meant to intimidate the exile.
Detention	Being held at the offending government's request.
Digital Threats	Coordinated, purposeful threats with a state-driven link, communicated through a public or private digital medium (including social media and messaging applications).
Enforced Disappearance	Incidents in which a person has disappeared and a government is believed to be responsible, but there is no confirmation as to the person's fate or whereabouts.
INTERPOL Abuse	Incidents in which governments misuse INTERPOL's notification system to circulate Red Notices or diffusions seeking the location and arrest of individuals based on illegitimate or politically motivated criminal charges.
Mobility Controls	Efforts to restrict travel and mobility, including through cancellation of passports, revocation of citizenship, and denial of consular services.
Physical Surveillance or Stalking	Efforts can include operations to gather personal information about dissidents that could subsequently be used in other forms of transnational repression and nonviolent coercive actions intended to harass or intimidate dissidents to dissuade their activities.

Spyware	Creation, use, or attempted use of malicious software that would monitor and exfiltrate communications or data found on a targeted user's mobile phone or computer.
Unlawful Deportation or Rendition	Forcibly sending a person to a country where there is probable danger, they would face torture or prosecution.

Source: Freedom House reporting and GAO interviews with officials from the Departments of Justice and State. | GAO-24-106183

Transnational Repression's Effects on Victims

Along with often violating individual rights and freedoms, TNR victim surveys and interviews with NGOs demonstrate the serious consequences that TNR can have on the personal, social, and professional lives of targets,⁶ such as:

- **Psychological, emotional, and physical:** fear, paranoia, stress, anxiety, dizziness, sleeplessness, suicidal thoughts, nausea, and digestive issues.
- **Self-censorship, isolation, and self-policing within the diaspora:** carefully selecting words and sentiments when posting to social media; limiting communication and interactions with family and friends; declining to participate in media appearances, demonstrations, or other forms of public activism; avoiding public gatherings.
- **Financial hardship:** difficulty affording legal fees associated with TNR cases or counter suits; inability to access bank accounts or assets that are frozen by foreign government authorities.

U.S. Arms Transfer Programs and Reviews

The U.S. uses two key arms transfer programs to support foreign policy and national security goals: (1) Direct Commercial Sales (DCS), under which a U.S. corporation and a foreign buyer generally negotiate the sale of arms or defense services without an intermediary subject to certain regulations and U.S. government oversight, and (2) Foreign Military Sales (FMS), under which the U.S. government generally acts as an intermediary for the sale, grant, or lease of arms or defense services to an eligible foreign recipient. While most arms transfers are paid for by the recipient, a small portion of transfers are funded by U.S. grants, including items provided through State's Foreign Military Financing Program and DOD's Building Partner Capacity Programs.

The U.S. can only provide FMS arms transfers to recipients that the President designates as eligible based on State's assessment of whether

⁶See, for example: The Freedom Initiative, *Friend or Foe? Saudi Arabian Government Repression in the US and Worldwide* (Washington, D.C.: The Freedom Initiative, 2021); Yana Gorokhovskaia and Isabel Linzer, "Unsafe in America: Transnational Repression in the United States," in *Defending Democracy in Exile: Policy Responses to Transnational Repression* (Washington, DC: Freedom House, June 2022), <https://freedomhouse.org/report/transnational-repression/united-states>.

the entity meets certain criteria.⁷ However, as stated in DOD’s guidance, this eligibility does not guarantee that agencies will approve all FMS transfers that are requested. The U.S. can broadly halt arms sales or limit particular items from being released for policy reasons or legal requirements. For example, if a country uses U.S.-transferred defense articles for unauthorized purposes, that country may be ineligible for future transfers until the violation has been resolved. In addition, DOD’s guidance states that a country may lose its eligibility status, including if the President determines that the country’s government consistently intimidates or harasses individuals in the U.S., as described in Section 6 of the AECA.

All proposed arms transfers undergo review processes—including foreign policy, national security, human rights, and nonproliferation reviews—intended to ensure the transfers safeguard U.S. interests. For example, State is required to evaluate proposed arms transfers against the criteria in the U.S. Conventional Arms Transfer (CAT) policy, which acts as presidential direction to the executive branch regarding the implementation of arms transfers. The most recent CAT policy, issued in February 2023, expressly requires consideration of the risk that an arms transfer will contribute to TNR.⁸

Under the Leahy laws, State vets foreign security force units nominated for U.S. assistance to ensure there is no credible information such unit has committed a gross violation of human rights, which includes torture, extrajudicial killing, enforced disappearance, or rape under color of law.⁹

⁷See 22 U.S.C. § 2753 (providing the President with the statutory authority to control the export of defense articles and defense services to eligible countries and international organizations). The President delegated some of this authority to the Secretary of State. See Exec. Order No. 13637, 78 Fed. Reg. 16129 (Mar. 13, 2013).

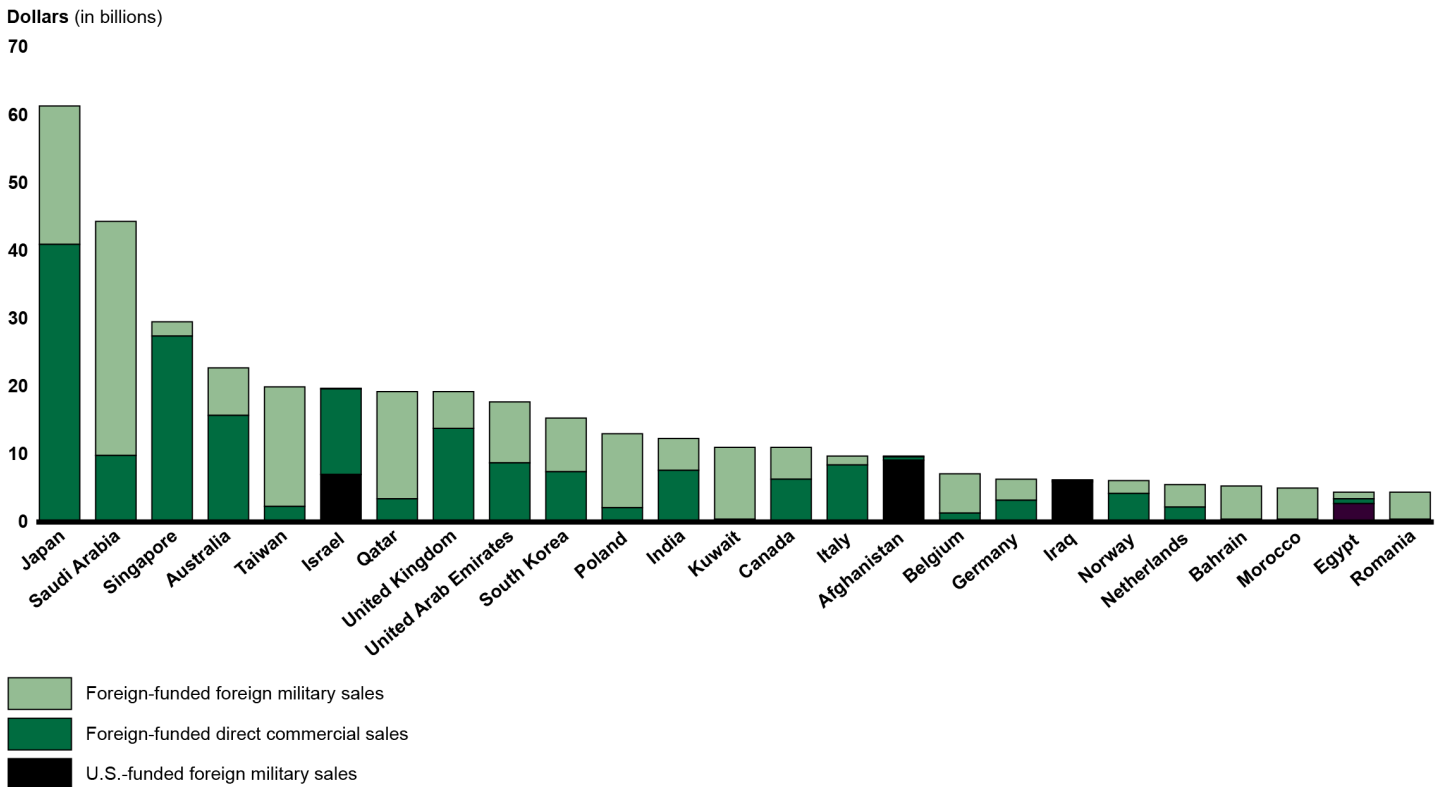
⁸Memorandum on United States Conventional Arms Transfer Policy, National Security Memorandum-18 (NSM-18) (Feb. 23, 2023). Previous conventional arms transfer policies included the January 2014 Presidential Policy Directive—United States Conventional Arms Transfer Policy (PPD-27), and the April 2018 National Security Presidential Memorandum Regarding U.S. Conventional Arms Transfer Policy (NSPM-10). Neither of these policies explicitly mentioned TNR.

⁹For this report, we use the term “Leahy laws” to refer collectively to the State and DOD Leahy laws, which prohibit certain assistance to foreign security force units when there is credible information such units committed a “gross violation of human rights.” See 22 U.S.C. § 2378d and 10 U.S.C. § 362. The State Leahy law applies to all applicable assistance furnished under the FAA or AECA. The DOD Leahy law applies to amounts made available to DOD for training, equipment, or other assistance for a unit of a foreign security force. State officials noted that, under long-standing executive branch interpretation and practice, the Leahy law does not apply to host-nation funded foreign military sales or direct commercial sales.

Top Arms Transfer Recipients

From fiscal years 2017 through 2021, the U.S. government authorized nearly \$580 billion in arms transfers to foreign entities, including foreign governments, according to State and DOD data.¹⁰ The top 25 arms transfer recipients accounted for about 67 percent of all arms transfers (see fig. 1).

Figure 1: Top 25 U.S. Arms Transfer Foreign Recipients, by Type, Fiscal Years 2017–2021



Source: GAO analysis of Department of Defense data and Department of State Section 655 reports. | GAO-24-106183

Notes: Numbers may not be exact due to rounding.

Foreign-funded direct commercial sales are those for which a U.S. corporation and a foreign buyer generally negotiate the sale of arms or defense services without an intermediary subject to certain regulations and U.S. government oversight. Foreign- and U.S.-funded foreign military sales are those

¹⁰Specifically, we reviewed data from two sources: (1) DOD’s Defense Security Assistance Management System on U.S.-funded and foreign-funded defense articles and defense services transferred through the FMS program with Letters of Offer and Acceptance implemented from fiscal years 2017 through 2021, and (2) State’s annual Section 655 reports to Congress on defense articles and defense services licensed for permanent export under Section 38 of the AECA for fiscal years 2017 through 2021. We excluded from our analysis direct commercial sales authorizations that were applicable to multiple countries, which were included under the designation “various” in State’s Section 655 reports.

for which the U.S. government generally acts as an intermediary for the sale, grant, or lease of arms or defense services to an eligible foreign recipient. Some foreign military sales are funded through U.S. grants, including items provided through Department of State's Foreign Military Financing Program and Department of Defense's Building Partner Capacity Programs.

For this figure, arms transfers include defense articles and services authorized for sale through direct commercial sales as well as defense articles and services that the U.S. government sold through the Foreign Military Sales program (including U.S.-funded items provided through Foreign Military Financing and other U.S.-funded programs). Data do not include direct commercial sales authorizations that were applicable to multiple countries, which were included under the designation "various" in State's Section 655 reports.

Key Federal Entities

Several federal entities have roles related to U.S. arms transfers and TNR, including those outlined in table 2.

Table 2: Key Federal Entities' Roles Related to U.S. Arms Transfers or Transnational Repression (TNR)

Federal entities	Efforts related to either U.S. arms transfers or TNR
Department of Defense (DOD)	<p>The Defense Security Cooperation Agency administers the Foreign Military Sales (FMS) program, including items provided with State's Foreign Military Financing (FMF) Program and DOD's Building Partner Capacity programs.</p> <p>DOD officials working in security cooperation organizations worldwide manage arms transfer programs administered by DOD and liaise with partner foreign officials for arms transfer issues.</p>
Department of Homeland Security (DHS)	<p>The Office of Intelligence and Analysis produces intelligence that assists federal, state, and local government entities to develop protective and support measures in response to threats, including TNR.</p> <p>The Office for Civil Rights and Civil Liberties engages with the public on civil rights and civil liberties issues, including TNR.</p> <p>The Office of Partnership and Engagement meets with NGOs, advocacy groups, and TNR victims to better understand the full scope of TNR in the U.S. and share available federal resources to help mitigate TNR threats. The office shares this information with federal, state, local, tribal, and international partners to coordinate counter-TNR measures and develop best practices.</p>
Department of Justice (DOJ)	<p>The Federal Bureau of Investigation (FBI) collects information on, and investigates, suspected violations of U.S. law, including those related to TNR.</p> <p>The National Security Division prosecutes and disrupts criminals working for nation state actors, including TNR perpetrators, or crimes that pose threats to U.S. national security. This division, along with the FBI, co-leads DOJ's TNR efforts.</p> <p>U.S. Attorney's Offices prosecute violators of federal criminal laws, including those related to TNR.</p>

Department of State

The **Bureau of Political-Military Affairs** oversees direct commercial sales (DCS) licensing and FMS sales including leading State's review of proposed DCS and FMS transfers for foreign policy, national security, human rights, and nonproliferation concerns; determining eligibility to participate in the FMS program; and managing the FMF account used to fund some FMS sales.

The **Bureau of Democracy, Human Rights, and Labor** provides input about human rights concerns for proposed arms transfers and develops State's annual *Country Reports on Human Rights Practices*. The report on a country includes a section on TNR, if applicable. Additionally, the bureau advances programming and policy efforts to build international opposition to TNR, deter and hold perpetrating governments accountable, and help provide protection to human rights activists, journalists, political dissidents, defectors, and other targets of TNR, according to State officials.

State officials working at **overseas embassies and consular posts** help formulate and implement U.S. foreign policy, including collecting information and engaging with foreign governments and citizens of foreign countries and reporting the results of these interactions back to State headquarters in Washington, D.C. State officials working overseas may review select DCS applications for human rights concerns, and, for select FMS transfers, may conduct country team assessments that address multiple issues, including human rights concerns.

National Security Council (NSC)

The **NSC** is the President's principal forum for national security and foreign policy decision-making with their national security advisors and cabinet officials and principal arm for coordinating these policies, including related to TNR, across federal agencies. According to State, DOJ, FBI, and DHS officials, the NSC leads an interagency working group on TNR, of which they are a part. The working group began in early 2021 and, as of June 2023, continued to meet, according to DHS and DOJ officials.

Source: GAO interviews with agency officials and agency documents. | GAO-24-106183

Note: For this table, arms transfers include defense articles and services authorized for sale through direct commercial sales as well as defense articles and services that the U.S. government sells to foreign recipients through the Foreign Military Sales program (including U.S.-funded items provided through Foreign Military Financing and other U.S.-funded programs). They do not include transfers under the Department of Commerce's jurisdiction, including less sensitive munitions items, dual-use items, and basic commercial items.

Agencies Have Tracked Some Transnational Repression Tactics and Perpetrators but Are Unable to Quantify the Full Extent of the Issue

Agencies have tracked some common tactics and perpetrators of TNR, but face challenges in quantifying the full extent of TNR against U.S.-based persons, such as underreporting of TNR incidents by victims. Agency officials said that they have made efforts to better identify TNR incidents against U.S.-based persons and raise awareness about the issue. However, they said that the lack of a common understanding of what constitutes TNR—particularly among state and local law enforcement—complicates their abilities to track the full extent of the issue.

Various TNR Tactics Have Been Used against U.S.-Based Persons

Agencies we spoke with did not have a full list of TNR incidents. Nevertheless, public reporting indicates that a wide range of TNR tactics have been carried out against U.S.-based persons. Table 3 provides examples of acts of TNR against U.S.-based persons, according to agency and NGO reporting.

Table 3: Reported Examples of Transnational Repression Against U.S.-Based Persons, 2015–2022

Tactic	Example
Assassination	Saudi agents murdered Jamal Khashoggi, a U.S. permanent resident, journalist, and vocal critic of Saudi authorities, in Istanbul, Turkey, in 2018.
Assault	15 Turkish security officials were indicted by a U.S. grand jury for a violent attack on protestors outside of the Turkish embassy in Washington, D.C., in 2017.
Coercion by proxy	The PRC government imprisoned dozens of family members of six U.S.-based Uyghur journalists in retaliation for their continued reporting on China and Uyghur matters for the U.S. government-funded news service Radio Free Asia, as of 2021.
Detention	Emirati authorities detained Sherif Osman, an Egyptian-American political dissident, for seven weeks in Dubai at the request of the Egyptian government in 2022.
Digital Threats	Chinese hackers used fake personas on Facebook to target approximately 500 Uyghurs abroad, including in the U.S., as of 2021.
Enforced Disappearance	Egyptian authorities reportedly disappeared Salah Soltan, a U.S. permanent resident and father of prominent U.S.-based Egyptian rights defender Mohamed Soltan, in 2020. His disappearance was reportedly in retaliation for Mohamed Soltan filing a U.S.-based lawsuit alleging he was tortured in Egypt.
INTERPOL Abuse	The PRC government caused INTERPOL to issue Red Notices against two U.S.-based persons alleging they were wanted for corruption-related charges, in or around 2015. This scheme was part of the PRC government’s “Operation Fox Hunt” which sought to threaten, harass, surveil, and intimidate the victims and coerce them to return to China.
Mobility Controls	Hong Kong police issued warrants for pro-democracy activists living abroad in 2020, including some residing in the U.S. The warrant prevented traveling to Hong Kong or any country with an extradition treaty with Hong Kong or China.
Physical Surveillance or Stalking	Iranian agents hired a private investigator to track movements of Masih Alinejad, an Iranian journalist and women’s rights activist, and her family in New York in 2021. The agents also researched ways to abduct her, including hiring a high-speed boat that could transport her from the Brooklyn waterfront to Venezuela and then on to Iran.
Spyware	The United Arab Emirates used a messaging application downloaded by millions worldwide, including some in the U.S., to surveil and track users in 2019.
Unlawful Deportation or Rendition	Russian police abducted Youras Ziankovich, a lawyer with U.S. citizenship, from a hotel in Moscow and handed him over to Belarusian security services who drove him over 400 miles to Minsk, Belarus, in April 2021.

Sources: Department of Homeland Security, Federal Bureau of Investigation, Freedom House, and The Freedom Initiative reports. | GAO-24-106183

Note: GAO did not independently verify the reported incidents described in this table. “U.S.-based persons” includes any U.S. citizen or noncitizen admitted for permanent residence in the U.S., regardless of location; as well as individuals who do not fall into these categories, but who are within the geographic borders of the U.S. (e.g., asylum seekers).

High-ranking government officials, including the Director of National Intelligence, DOJ’s Assistant Attorney General for National Security, and DHS’s Assistant Secretary for International Affairs have identified TNR tactics—such as those detailed above—as threats to democracy, human rights, and national security.

Most Frequently Cited
TNR Offenders Include the
People’s Republic of
China, Iran, Russia,
Rwanda, and Turkey

Agencies and NGOs have made efforts to collect and report information on incidents of TNR in recent years. For example, in 2019, State began including examples of acts of TNR worldwide in its annual *Country Reports on Human Rights Practices*.¹¹ According to officials, State began including these examples in its human rights reports in response to Congressional concerns about INTERPOL abuse. Since then, State has broadened the scope to include examples of additional types of TNR because of increasing awareness of TNR and the fact that TNR manifests in many ways, according to officials.

State officials told us that the human rights reports could not be used to identify repeat perpetrators of TNR because the reports were not comprehensive. Specifically, officials said State did not proactively seek reporting on TNR for its human rights reports prior to 2021, and therefore contributors to these reports may not have known what to look for or how to report it. While State dedicated a section of the human rights reports to TNR in 2021, officials said contributors to the reports were instructed to provide only illustrative examples if applicable.

Beyond State’s collection of illustrative examples of TNR incidents in its human rights reports, agencies and NGOs have made some efforts to identify common TNR offenders. Specifically, State, DHS, and Freedom House have reported on foreign governments known to have engaged in TNR worldwide and against U.S.-based persons in various contexts, including the following:

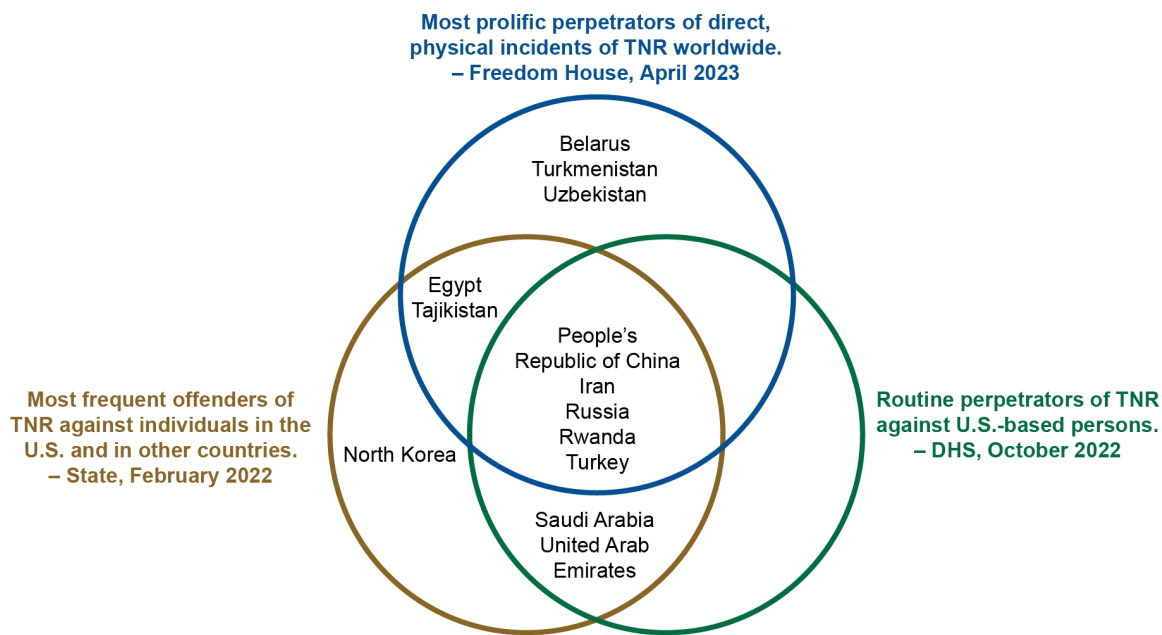
- State reported on countries that are among the most frequent offenders of TNR against individuals in the U.S. and in other countries in a February 2022 cable to diplomatic and consular posts.
- DHS reported on foreign governments that are routine perpetrators of TNR against U.S.-based persons in an October 2022 assessment prepared for an NSC-led interagency working group on TNR.
- Freedom House reported on the most prolific perpetrators of direct, physical incidents of TNR worldwide in its April 2023 report based on incidents from January 2014 through December 2022.¹²

¹¹For State’s most recent 2022 *Country Reports on Human Rights Practices*, see <https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/>.

¹²Freedom House’s report focuses on the most prolific perpetrators of direct, physical incidents of TNR worldwide. According to Freedom House officials, they have evidence of direct, physical incidents of TNR against U.S.-based persons by China, Iran, Russia, and Rwanda, and nonphysical TNR against U.S.-based persons by Egypt and Saudi Arabia. Yana Gorokhovskaia, Nate Schenckan, Grady Vaughan, *Still Not Safe: Transnational Repression in 2022*, (Washington, DC: Freedom House, April 2023).

The PRC, Iran, Russia, Rwanda, and Turkey appeared in all three of the above agency and NGO reports as perpetrating TNR worldwide and against U.S.-based persons. See figure 2 for countries that appear in these reports.

Figure 2: Foreign Governments Named as Transnational Repression (TNR) Perpetrators in Agency and Organization Reports (Issued 2022–2023)



Legend: transnational repression = TNR.

Sources: GAO analysis of reports by Freedom House and the Departments of State (State) and Homeland Security (DHS). | GAO-24-106183

Note: Freedom House defined TNR as governments reaching across borders to silence dissent among diasporas and exiles, including through assassinations, illegal deportations, abductions, digital threats, INTERPOL abuse, and family intimidation. For purposes of the *Country Reports on Human Rights Practices*, the Department of State defined TNR as acts by governments, either direct or through others, to intimidate and/or exact reprisal against individuals outside of their sovereign borders, including against members of diaspora populations such as political opponents, civil society activists, human rights defenders, and journalists. Department of Homeland Security generally defined TNR as the act of a foreign government reaching across national borders, often illicitly, to silence dissent among its diaspora and exile communities.

Agencies Have Made Efforts to Raise Awareness of TNR to Better Quantify TNR against U.S.-Based Persons

Agencies we spoke with collect some data on TNR against U.S.-based persons while carrying out various missions that relate to TNR, but they are unable to quantify the full extent of the issue. For example, DOJ and the FBI collect some data on TNR against U.S.-based persons when there is potential violation of U.S. law or a national security threat, but officials told us that their data likely undercounts the number of incidents. Similarly, State has collected some information on examples of TNR

against U.S.-based persons in the course of its statutorily required human rights reporting, but officials do not presume them to be comprehensive. In addition, while DHS has collected some qualitative data on TNR against U.S.-based persons through community engagements, intelligence analysis, and review of public information sources, officials said that they have little quantitative data.

Agencies and NGOs have cited several challenges that make it difficult to quantify TNR against U.S.-based persons. For example:

Some forms of TNR are difficult to detect. For example, digital TNR, including online death threats and surveillance, is frequently opaque, according to Freedom House. In addition, TNR on social media is hard to disentangle from the broader problem of harassment online. Furthermore, Freedom House officials identified coercion by proxy as the most common TNR tactic used against U.S.-based persons, but because actual acts occurred in other countries, it was difficult for the U.S. government to identify and deal with the issue.

Victims of TNR may be reluctant to report incidents. Victims may distrust U.S. law enforcement due to prior personal experiences with law enforcement in their countries of origin, according to FBI officials. In addition, some victims fear retribution from perpetrating governments if they go to authorities, according to DHS officials and interviews conducted with TNR victims by Freedom House and Freedom Initiative. According to these interviews, victims may also be less likely to interact with law enforcement agencies if they fear it could endanger their immigration status. Furthermore, some of these victims expressed discouragement regarding the lack of corrective action from social media platforms and government agencies in response to TNR incidents.

Victims may not recognize activities as TNR. In some cases, victims may come from countries where repression is normalized, which can lead to a lack of recognition and underreporting of TNR, according to FBI officials and Freedom House. Also, the covert nature of digital TNR, including spyware and online surveillance, is harder to detect in real time, according to NGO reporting.

To help address these challenges to quantifying TNR against U.S.-based persons, agencies have made efforts to identify TNR incidents and raise awareness about the issue. For example:

Intelligence and analysis. The FBI created a TNR coordination cell in summer of 2021 to support the bureau's TNR intelligence and analysis efforts. Officials said that the FBI's TNR cell coordinates efforts across

FBI headquarters and its 56 field offices to identify, counter, and address TNR activity. This cell has helped standardize FBI outreach, engagement, categorization, and tracking related to TNR issues, according to officials.

Community engagement. DHS and State have held engagements with civil society partners, community stakeholders, and victims of TNR in the U.S. to raise awareness about available government resources and to help improve the U.S. government's understanding of the scale and scope of TNR. For example, DHS hosted a listening session in March 2022 with community stakeholders and advocacy organizations to learn about issues targeted communities may face in the U.S., and to share information about federal resources available to them. During this session, DHS and other U.S. government officials also discussed the federal government and its partners' roles in protecting communities against TNR.

Also in March 2022, DHS and State held a roundtable with global victims of TNR. Additionally, in 2022, the NSC tasked State with collecting information on how to better protect vulnerable diaspora groups and individuals from TNR, according to officials. In response, some State embassy staff met with and listened to recommendations from overseas diaspora activists, journalists, and others who are at risk of TNR.

Public outreach. Agencies have also increased public outreach efforts to raise awareness about the issue and encourage reporting. For example, as of February 2023, the NSC was creating a toolkit for public release that will list U.S. government resources for individuals in the U.S. experiencing TNR, according to DHS officials. In addition, FBI launched a webpage dedicated to TNR in March 2022 and has used social media to publicly share information on the issue and ways to report incidents (see fig. 3).

Figure 3: Examples of Department of Justice and Federal Bureau of Investigation Social Media on Transnational Repression



Source: Department of Justice, Federal Bureau of Investigation. | GAO-24-106183

A Lack of Common Understanding of TNR Among Agencies Complicates Tracking the Full Extent of TNR against U.S.-Based Persons

Officials said that a lack of common understanding about TNR across the U.S. government and state and local law enforcement agencies has contributed to gaps in tracking the full extent of TNR incidents against U.S.-based persons. In particular, state and local law enforcement, who are often the first organizations to encounter victims of TNR, sometimes treat incidents as “ordinary” crimes because they do not recognize a foreign aspect that could indicate it was an act of TNR, according to FBI and DHS officials. As such, local law enforcement may not report these incidents to federal authorities, including the FBI or DHS. This underreporting of TNR incidents by state and local law enforcement entities limits federal authorities’ awareness of individual acts of TNR and subsequently their ability to understand the full extent of the issue.

Federal agencies have ramped up efforts in recent years to try to improve understanding of TNR among federal, state, and local agencies. For example:

Training and guidance. At the federal level, the FBI has trained key staff on the bureau’s own definition of TNR, examples of TNR incidents, and instructions on how to document TNR in FBI’s systems, according to officials. Additionally, officials said that DOJ headquarters regularly provides informational materials about TNR to field offices. As of May 2023, DHS was updating its training materials to help officers better understand and identify potential instances of INTERPOL abuse, according to officials. In addition, officials said State has issued annual guidance to overseas posts since 2019 on how to

identify and report examples of TNR to be included in annual human rights reports. State sent its embassies and consular posts a notice calling attention to TNR and a cable explaining what TNR entails in July and February of 2022, respectively.

The FBI also conducted training with some state and local law enforcement agencies to raise awareness of TNR tactics and increase the likelihood that agencies will forward relevant information to the FBI, according to officials. For example, in November 2022, the FBI provided training to the New York State Intelligence Summit, according to officials.

Additionally, FBI produced five Counterintelligence Bulletins between 2020 and 2022 assessing the threat of TNR that it shared with some state, local, and tribal law enforcement agencies. These bulletins explain the nature of specific threats of TNR and how law enforcement agencies and the general public can report and respond to it. Furthermore, DHS and the FBI have issued joint reporting for state and local law enforcement agencies aimed at raising awareness about TNR, including the definition, routine perpetrators and targets, and common indicators and tactics.

DHS has also issued several products to inform state, local, tribal, and territorial officials of indications of TNR taking place in the U.S., according to DHS officials. Officials told us that these products include a broad overview of TNR conducted by seven identified countries, assessments of various activities by China involving TNR in the U.S., and a list of indications that ostensibly “ordinary” criminal activity may have TNR elements. These products include contact information for reporting suspected TNR to federal authorities, according to DHS officials.

Interagency collaboration. Agency officials we spoke with said that they have shared information about TNR through the NSC-led working group on TNR and other means. For example, DOJ and FBI officials told us that they engage with other federal agencies to inform them about TNR threats and share best practices. FBI officials also said that they coordinate and disseminate information about TNR with various allies and other foreign governments to assist investigations involving TNR.

Similarly, DHS and State have provided the above-mentioned assessments of TNR with other federal agencies, according to

officials.¹³ The FBI also shares TNR-related information with state and local law enforcement partners through the Association of Police Chiefs, regional intelligence conferences, and other venues, depending on the audience, according to officials. Further, DHS announced in March 2023 that it will regularly convene with numerous international partners to facilitate greater cooperation among relevant agencies to strengthen the cybersecurity of high-risk communities.¹⁴

Agency officials also told us about two ways they have taken steps to establish a standard interagency definition of what constitutes TNR. First, the FBI has made efforts to circulate its own working definition of TNR internally and to other federal, state, and local agencies, according to officials. Second, State officials told us in June 2023 that they are working with DOJ and DHS as well as international partners about the need to establish a common definition of what constitutes TNR. State officials also said that recently proposed legislation, if enacted, would define TNR in the law.¹⁵ As of July 2023, no government-wide definition of TNR was established either by agencies or through legislation.

However, DOJ officials told us that additional training of state and local law enforcement and enhanced interagency collaboration would help further promote a common understanding of TNR among partners at the federal, state, and local levels. *Standards for Internal Control* state federal entities should use quality information to achieve their objectives.¹⁶

¹³The DHS assessments were also cleared for sharing with state, local, tribal, and territorial authorities, according to DHS officials. Officials told us that the assessment of routine perpetrators of TNR against U.S.-based persons was also cleared for sharing with some international partners to facilitate international cooperation on combatting TNR.

¹⁴As of March 30, 2023, the list of governments that have committed to participate in this effort, called the Strategic Dialogue on Cybersecurity of Civil Society Under Threat of Transnational Repression, include Australia, Canada, Denmark, Estonia, France, Japan, New Zealand, Norway, United Kingdom, and the U.S.

¹⁵A bill to formally define and criminalize TNR in federal law, among other things, was introduced in December 2022, but it was not voted on or passed during that legislative session. Stop Transnational Repression Act, H.R. 9460, 117th Cong. (2022). Additionally, two bills to address TNR, which, among other things, define TNR and describe many of the various forms that it can take, were introduced in March and May 2023, respectively. Transnational Repression Policy Act, S. 831, 118th Cong. (2023); and Transnational Repression Policy Act, H.R. 3654, 118th Cong. (2023).

¹⁶GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: Sept. 10, 2014).

Agencies Have Adapted Tools to Penalize Individuals for Transnational Repression, but No U.S. Law Specifically Criminalizes Transnational Repression

Additionally, agreeing upon common terminology and definitions is a key consideration in our Leading Practices for Interagency Collaboration.¹⁷

According to DOJ's Strategic Plan, preventing repression of dissidents—a characteristic of TNR—is one of a number of strategic actions DOJ takes to achieve the objective of protecting U.S. democratic institutions.¹⁸

Further, a State and DOJ August 2022 report to Congress states that “the Administration is taking a whole-of-government approach to deter repressive governments from engaging in transnational repression, promote accountability for those that engage in it, and increase measures to protect victims against it.”¹⁹

Without additional steps to enhance understanding of TNR, DOJ may not be able to capture quality information when assessing the extent of TNR against U.S.-based persons and risks not achieving its objective with respect to countering the threat of TNR.

Agencies have used existing administrative penalties and criminal statutes to hold individuals accountable for certain acts of TNR against U.S.-based persons, but U.S. law does not specifically criminalize or define what constitutes TNR. Therefore, DOJ and FBI have used other statutes such as those prohibiting money-laundering or murder-for-hire—tactics used in TNR schemes—to investigate and prosecute individual perpetrators of TNR. However, there may be gaps in existing law that limit agencies' ability to counter TNR in all its forms and hold perpetrating governments accountable, according to FBI officials.

¹⁷GAO, *Government Performance Management: Leading Practices to Enhance Interagency Collaboration and Address Crosscutting Challenges*, [GAO-23-105520](#) (Washington, D.C.: May 24, 2023).

¹⁸Department of Justice, *FYs 2022-2026 Strategic Plan* (Washington, D.C.: July 2022).

¹⁹Department of Justice and Department of State, *Assessment of INTERPOL Member Country Abuse of INTERPOL Red Notices, Diffusions, and Other INTERPOL Communications for Political Motives and Other Unlawful Purposes* (Washington, D.C.: August 2022). In addition, according to DOJ officials, the National Security Division's strategy for countering nation-state threats, includes threats such as TNR. DOJ officials told us this strategy is articulated in February 2022 remarks made by the Assistant Attorney General for National Security, which can be found at <https://www.justice.gov/opa/speech/assistant-attorney-general-matthew-olsen-delivers-remarks-countering-nation-state-threats>.

Agencies Have Used Visa Restrictions and Sanctions to Penalize Individual Perpetrators of TNR against U.S.-Based Persons

State and Treasury have used existing tools to penalize individuals who have committed acts of TNR against U.S.-based persons.

Khashoggi Visa Ban against TNR perpetrators. In February 2021, State created the Khashoggi Ban policy as a new policy under a pre-existing visa restriction legal authority²⁰ to prohibit entry into the U.S. for those who directly engage in serious, extraterritorial counter-dissident activities on behalf of a foreign government against U.S.-based persons as well as others.²¹ The ban defines serious extraterritorial counter-dissident activities to include those that suppress, harass, surveil, threaten, or harm journalists, activists, or other persons perceived to be dissidents for their work. The ban also applies to those who engage in such activities with respect to the families or other close associates of such persons. Although State does not always specify the exact number of cases or release the identities of those subject to the ban, it has publicly reported steps taken to impose visa restrictions on over 82 individuals under the ban, including:

- Seventy-six Saudi individuals believed to have been engaged in threatening dissidents overseas, including some implicated in Jamal Khashoggi's murder.
- Belarusian nationals involved in serious, extraterritorial counter-dissident activity.
- Six Russian nationals who, acting on behalf of the Russian Federation, were involved in attacks on Chechen dissidents living in Europe.

7031(c) visa restrictions against foreign government officials. In addition to the Khashoggi Ban, State imposes other visa restrictions against foreign government officials involved in TNR incidents to the

²⁰See 8 U.S.C. § 1182 (codifying, in part, section 212(a)(3)(C) of the Immigration and Nationality Act). See Pub. L. No. 82-414, 66 Stat. 182 (1952), as amended.

²¹Press Statement, Secretary of State Antony J. Blinken, Accountability for the Murder of Jamal Khashoggi (Feb. 26, 2021).

extent that the incidents involve a gross violation of human rights, according to officials.²²

Magnitsky financial sanctions and visa restrictions against individuals. In response to serious human rights abuses, which, depending on the circumstances, may include acts of TNR, State and the Department of the Treasury may also use the Global Magnitsky sanctions program to impose financial sanctions and visa restrictions against foreign individuals and entities.²³ For example, Treasury, in consultation with State, can block any U.S.-based assets owned by foreign individuals who those agencies determine are responsible for or complicit in, or have directly or indirectly engaged in serious human rights abuses. As of March 2023, 18 individuals and one entity have been sanctioned under this program in connection with serious human rights abuses related to TNR, according to State officials. Officials told us that all of these sanctions were related to the killing of Jamal Khashoggi.

No U.S. Law Specifically Criminalizes TNR, so Agencies Rely on Statutes That Address Related Activities

U.S. law does not specifically criminalize or define what constitutes TNR, so DOJ, FBI, and other law enforcement agencies have investigated and

²²In cases where the Secretary of State has credible information that officials of foreign governments have been involved in gross violations of human rights or significant corruption, those individuals and their immediate family members are to be designated publicly or privately and are ineligible for entry into the U.S. Congress incorporated section 7031(c) designation requirements and visa restrictions in each Department of State appropriations act that falls within the timeframe for this audit. See Consolidated Appropriations Act, 2023, Pub. L. No. 117-328, § 7031(c), 136 Stat. 5026 (2022); Consolidated Appropriations Act, 2022, Pub. L. No. 117-103, § 7031(c), 136 Stat. 615 (2022); Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, § 7031(c), 134 Stat. 1743 (2020); Further Consolidated Appropriations Act, 2020, Pub. L. No. 116-94, § 7031(c), 133 Stat. 2865 (2019); Consolidated Appropriations Act, 2019, Pub. L. No. 116-6, § 7031(c), 133 Stat. 319 (2019); Consolidated Appropriations Act, 2018, Pub. L. No. 115-141, § 7031(c), 132 Stat. 884 (2018); and Consolidated Appropriations Act, 2017, Pub. L. No. 115-31, § 7031(c), 131 Stat. 640 (2017).

²³Global Magnitsky Human Rights Accountability Act, Pub. L. No. 114-328, § 1261 et seq., 130 Stat. 2533 (2016) (referring to 22 U.S.C. § 2304(d)(1) to define gross violations of internationally recognized human rights). See also Exec. Order No. 13818, 82 Fed. Reg. 60839 (Dec. 26, 2017) (relying, in part, on the Global Magnitsky Human Rights Accountability Act for authority and using the terminology “serious human rights abuse”). “Designated entities” may range from entities used to facilitate the transfer or sheltering of ill-gotten assets (shell companies) to entire government ministries or bureaus, according to the Congressional Research Service.

prosecuted acts of TNR through other criminal statutes.²⁴ The following examples demonstrate how DOJ and the FBI have characterized recent cases as TNR, yet utilized charges that are aimed at conduct described in the U.S. criminal code as opposed to TNR more broadly:

Assassination plot, January 2023. DOJ and the FBI announced charges against three members of an Eastern European criminal organization in connection with an assassination plot directed from Iran against a U.S. citizen in New York, who had publicly opposed the Iranian government. The indictment states that the Iranian government has sought to repress opposition to the regime by targeting dissidents in the forms of harassment, intimidation, incarceration, kidnapping, and death. It also details that the victim had long been a target of the Iranian government, including prior rendition and kidnapping plots. The DOJ charged the assassination plot defendants with conspiring to money launder and commit murder-for-hire.

Spying and blackmail, March 2022. DOJ unsealed charges against a Chinese national who allegedly travelled to the U.S. and enlisted others, including a law enforcement officer, to spy on and blackmail several people in the U.S. As alleged, the individual acted at the direction of the People's Republic of China (PRC) government and attempted to threaten and coerce victims to pressure them to return to China and face charges brought by the PRC government. Specifically, the Chinese national used the U.S. law enforcement officer to reinforce that the victim had no choice but to comply with the PRC government's demands. The DOJ charged the individual with conspiring to act, and acting, as an agent of a foreign government without notifying the Attorney General.

While agencies can leverage relevant statutes to hold some individuals accountable, FBI officials explained that because these statutes are not "purpose-built" to address TNR, they are sometimes insufficient to address the full scope of the identified TNR activity targeting U.S.-based persons. TNR encompasses a wide range of activities, some of which fall outside the scope of current U.S. law, as discussed below. DOJ officials said that a TNR-specific statute would allow the department to call attention to the involvement of foreign governments better than it currently does through press releases and indictments of individuals for non-TNR-specific crimes. Officials further said that a TNR-specific criminal statute

²⁴In addition to the FBI, State's Diplomatic Security Service may also incidentally investigate cases related to TNR when it carries out its mission of investigating passport and visa fraud, according to officials.

would better position the department to hold perpetrating foreign governments (in addition to individuals) accountable within the international community.

FBI conducted an informal internal analysis of all federal indictments from TNR-related cases between January 2020 and July 2022, and determined that there are several gaps in U.S. law related to TNR that hinder the bureau's ability to fully address TNR, including the following examples, according to officials:

Surveillance. The U.S. does not have a statute outlawing the collection of information about individuals on behalf of a foreign power and this can affect law enforcement agencies' ability to address some TNR conduct, according to FBI officials. While the U.S. has espionage laws, these are focused on the protection of national defense information, as opposed to protecting information on private citizens.²⁵ For example, if a foreign government official hires a private investigator to surveil someone in the U.S., this scenario may present factual or legal hurdles for investigators and prosecutors, according to FBI officials. Furthermore, even if those hurdles are surmounted, the investigator may not cooperate with U.S. authorities to disclose who they are working for, which could make it challenging for law enforcement officials to connect the particular instance of surveillance to the larger TNR scheme.

Geographic limitations. DOJ and FBI officials said that TNR perpetrators are often located overseas, limiting the possible statutes U.S. law enforcement can use against them. Officials explained that acts of TNR against U.S.-based persons, such as digital harassment or online surveillance, are often carried out by perpetrators who are not in the U.S. However, most existing criminal statutes were enacted before the existence of the internet, which can make it harder to prosecute individuals using the internet outside the U.S. to facilitate their crimes against victims inside the U.S., according to DOJ and FBI officials. For example, prior notification to the U.S. Attorney General is legally required for individuals acting in the U.S. under the control of

²⁵See 18 U.S.C. ch. 37. In contrast, Freedom House has noted some European countries have "refugee espionage" laws, which treat the collection of information on individuals on behalf of a foreign state as a specific kind of espionage. See Gorokhovskaia and Linzer, "Unsafe in America: Transnational Repression in the United States," Freedom House, 2022, at 8, available at <https://freedomhouse.org/report/transnational-repression/united-states>.

foreign governments or foreign officials.²⁶ DOJ officials said that courts would have to determine, for example, if a person located outside the U.S. who uses the internet to engage in TNR activities with consequences inside the U.S. was acting in the U.S. within the meaning of the statute.

It is unclear, however, the extent to which Congress knows the full results of FBI's analysis of gaps in the current legal code. FBI officials said that they have used their analysis to inform responses to Congressional requests for input on specific proposed TNR legislation.²⁷ However, FBI officials also told us that the results of FBI's analysis have not been provided to any Congressional member or committee, and DOJ officials said that there is no formal department-wide analysis of gaps in current legislation.

DOJ officials told us that the department can provide its views on whether legislation is sufficient to address threats such as TNR in several ways. For instance, DOJ can provide informal technical assistance on draft legislation. They can also do so through formal processes outlined in Office of Management and Budget (OMB) Circular A-19, such as submitting legislative proposals or formal "views letters" coordinated through OMB.²⁸ Upon formalizing its position, DOJ could submit a legislative proposal for OMB's review and approval, or—in response to a congressional request—DOJ could develop and submit a views letter with the department's official position to OMB for review. OMB could then inform and finalize the administration's position for potential transmittal to Congress. However, while DOJ has provided informal technical assistance to Congress on TNR-related legislation, it had not completed a formal department-wide analysis of whether existing legislation is

²⁶These individuals are known as "agents of a foreign government." This term does not include diplomats or some other individuals. 18 U.S.C. § 951.

²⁷In recent legislative sessions, bills to address TNR have been introduced, but none were enacted as of July 2023. For example, two bills introduced in March and May 2023 seek to require an interagency strategy to address TNR in the U.S. and abroad. Such a strategy would include considering updates to U.S. law that directly address specific TNR tactics. These updates, according to the bills, could include criminalizing the gathering of information about private individuals in diaspora and exile communities on behalf of a foreign power that is intending to harass, intimidate, or harm an individual in order to prevent their exercise of internationally recognized human rights. These updates could also expand the definition of foreign agents under current law, according to the bills. See Transnational Repression Policy Act, S. 831, 118th Cong. (2023); Transnational Repression Policy Act, H.R. 3654, 118th Cong. (2023).

²⁸See Office of Management and Budget, Circular No. A-19, Legislative Coordination and Clearance (Sept. 1979).

sufficient to address TNR or submitted any views letters to OMB based on FBI's gap analysis as of June 2023, according to officials.

Standards for Internal Control state federal entities should (1) identify, analyze, and respond to risks related to achieving the defined objectives and (2) internally and externally communicate the necessary quality information to achieve the entity's objectives.²⁹ Preventing the repression of dissidents is one of several strategic actions DOJ takes to achieve the objective of protecting U.S. democratic institutions according to its Strategic Plan.³⁰ In addition, the administration's 2022 National Security Strategy states that countering TNR is among ways the U.S. and its allies can hold foreign states accountable for violations and abuses of human rights. A coordinated, department-wide position in DOJ that contains applicable details from FBI's informal analysis could help ensure that DOJ, the administration, and Congress are fully informed of all potential gaps in current legislation for addressing TNR that pose risks to achieving these objectives.

It is Unclear If a Transnational Repression-related Prohibition on Arms Transfers Has Ever Been Considered

Beyond agencies using existing tools to penalize individual perpetrators of TNR, Section 6 of the Arms Export Control Act (AECA) provides the U.S. government one way of holding accountable some foreign governments behind acts of TNR in the U.S.³¹ However, it has never been invoked since its enactment in 1981 and, with limited required reporting, it is unclear the extent to which it has been considered. While agencies have never halted arms transfers to any country on account of TNR, as of June 2023, State officials told us that they were developing new procedures for considering TNR in the context of arms transfers. Coordinating with other agencies that collect information on TNR could help ensure State has the information it needs to make informed decisions for these new efforts.

²⁹GAO-14-704G.

³⁰Department of Justice, *FYs 2022-2026 Strategic Plan*.

³¹For the purposes of this report section, we refer to the acts described in Section 6 of the AECA as TNR because they seem like they could be encompassed by the Freedom House definition used elsewhere in this report. Specifically, Section 6 of the AECA uses the language "consistent pattern of acts of intimidation or harassment directed against individuals in the United States." 22 U.S.C. § 2756. This definition differs from the more expansive Freedom House definition used elsewhere in the report.

The U.S. Government Has Never Invoked the TNR-related Statutory Prohibition on Arms Transfers

Section 6 of the AECA is one tool for potentially holding some foreign governments accountable for directing acts of TNR against individuals in the U.S., but it has never been invoked since its enactment in 1981.³² Section 6 prohibits arms transfers to countries that the President determines are engaged in a consistent pattern of acts of intimidation or harassment against individuals in the U.S. However, no president has ever made a determination under Section 6 of the AECA, so the U.S. government has never denied or changed a country's arms transfer eligibility status on that basis, according to State officials.

It is also unclear the extent to which any president may have considered making a determination under Section 6 of the AECA since its enactment in 1981. Specifically, the President is not required to make any determinations under Section 6 of the AECA. Rather, the statute requires the denial of arms transfers only in the event that the President makes a determination that a country is engaged in a consistent pattern of acts of intimidation or harassment against individuals in the U.S.³³ Therefore, the lack of a positive determination under the statute does not necessarily mean that no president has ever considered the statute. For example, it is possible that presidents have considered information about acts of intimidation or harassment against individuals in the U.S. and concluded that they do not constitute a consistent pattern.

³²Congressional records indicate that Section 6 was introduced following hearings on the mysterious death of Chen Wen-chen, a Taiwanese professor at Carnegie Mellon. Taipei authorities and American investigators concluded that Chen died of injuries sustained in a fall from a Taipei building shortly after a 12-hour police interrogation concerning alleged "independence activities" in the U.S., according to the Congressional Research Service. See Congressional Research Service, *Taiwan and the Killing of Henry Liu: Issues for Congress* (Feb. 1, 1985).

³³These nuances of Section 6 of the AECA were remarked upon a few years after its passage in Congressional testimony by Michael J. Glennon, a professor of law and former counsel to the Senate Foreign Relations Committee. In a 1985 hearing, Glennon stated that Section 6 "was a step in the right direction" but that it appeared to have had little effect during the four years since the law's enactment. He attributed this, in part, to the fact that a determination under Section 6 is optional, pointing out that "Arms sales are terminated only in the event the President makes the determination in question, but the Amendment does not require that he make that determination." He went on to say that Section 6 might be strengthened by, for example, requiring the President to transmit a written determination to Congress with respect to any country that engages in the pattern of activities described in Section 6, which would effectively mandate a cut-off of arms sales to that country, or by requiring the executive branch to report annually to Congress concerning every country engaged in a pattern of harassment, intimidation, or surveillance in the U.S., which would provide hard information on matters "beset with rumor and speculation." *The Murder of Henry Liu, Hearings Before the House Subcomm. on Asian and Pacific Affairs, 99th Cong. 384-87 (1985)* (statement of Michael J. Glennon, Professor of Law, University of Cincinnati).

No president has delegated the authority in Section 6 of the AECA to an executive agency, so the determination of whether any country is engaged in a consistent pattern of acts of intimidation or harassment against individuals in the U.S. under Section 6 lies solely with the President.³⁴ A number of provisions in the AECA are directed to the President, some of which have been delegated and some of which have not. For example, the President delegated monitoring the end-use of arms transfers to DOD and State, but the determination regarding financing the sale of sophisticated weapons systems to certain underdeveloped countries under Section 4 of the AECA has not been delegated.³⁵

Limited Reporting Requirements Do Not Provide Full Transparency of TNR-Related Prohibition on Arms Transfers

Unlike some other statutes that focus on protecting individuals from foreign actors, Section 6 of the AECA requires the President to report to Congress only following a positive determination that a country is engaged in a consistent pattern of acts of intimidation or harassment directed against individuals in the U.S. Other laws, however, require reporting on a statute's use more generally. For example, State previously has been required to submit a report to the appropriate congressional committees on the use and outcome of human rights vetting pursuant to State's Leahy law during the prior fiscal year to include information beyond the instances where assistance was denied.³⁶ Since Section 6 only requires reporting in the event of a positive determination, Congress, and the general public, do not have insight into why no such determinations have ever been made or the extent to which such determinations have been considered.

We found that some of the foreign governments identified by agencies and NGOs as having engaged in TNR worldwide are among the top

³⁴We found no indication in the Federal Register of a delegation, and the agencies we interviewed confirmed the AECA's Section 6 authority was not delegated to them.

³⁵In 1996, Congress amended the AECA to require the President to establish a program for monitoring the end-use of defense articles and defense services sold, leased, or exported under that act or the Foreign Assistance Act of 1961, as amended. 22 U.S.C. § 2785. The President delegated responsibilities for the monitoring program to the Secretary of Defense, insofar as they relate to defense articles and defense services sold, leased, or transferred under the Foreign Military Sales Program, and to the Secretary of State, insofar as they relate to commercial exports licensed under the AECA. See Exec. Order No. 13637, §1(p), 78 Fed. Reg. 16129 (Mar. 13, 2013). Section 4 of the AECA authorizes the President to make a determination regarding financing the sale of sophisticated weapons systems to certain underdeveloped countries. See 22 U.S.C. § 2754 (codifying section 4 of the AECA, as amended).

³⁶See, e.g., Pub. L. No. 116-6, § 7049(d)(3); Pub. L. No. 115-141, § 7034(b)(9); and Pub. L. No. 115-31, § 7034(b)(9).

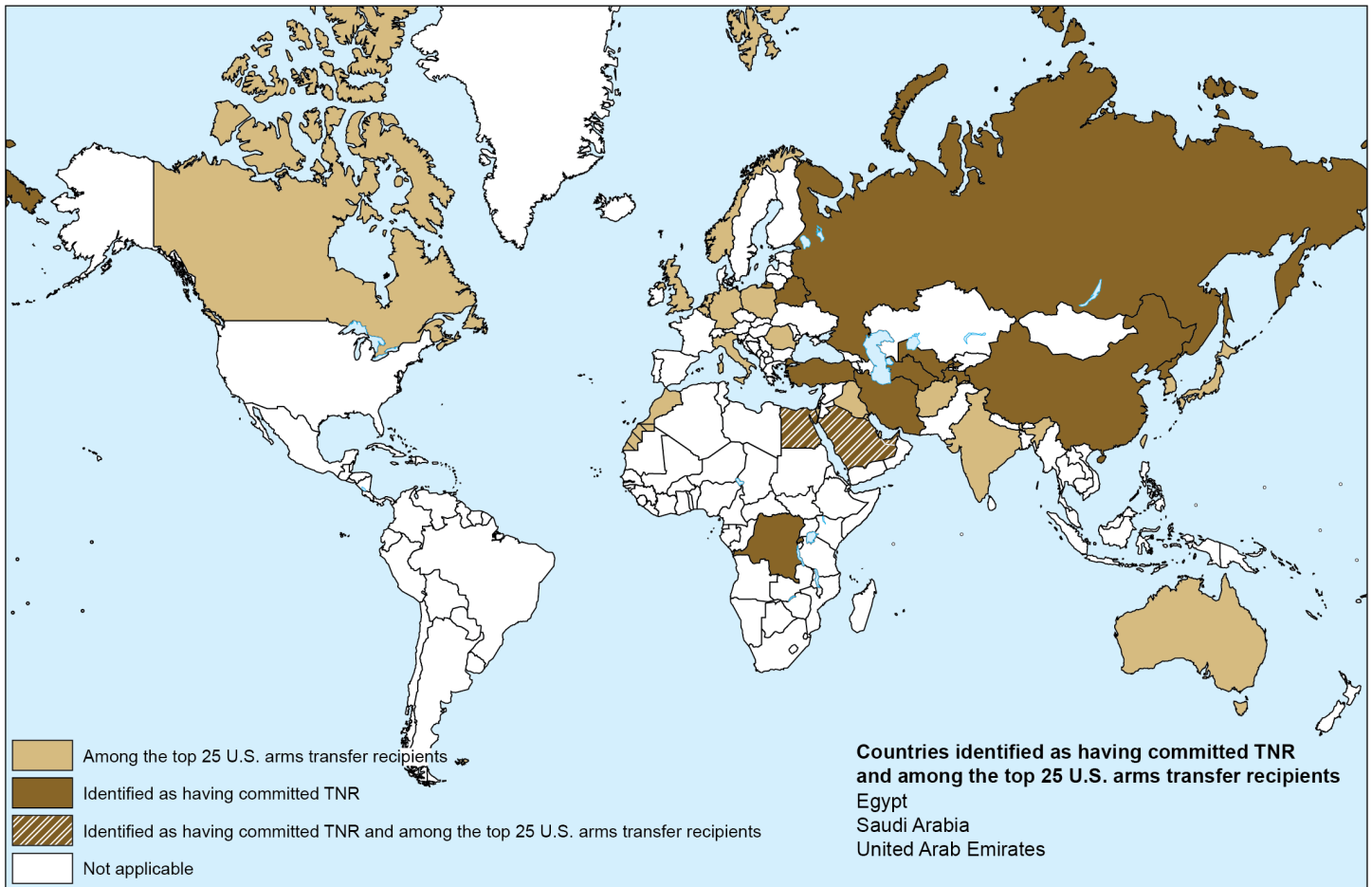
recipients of U.S. arms transfers from fiscal years 2017 through 2021.³⁷ However, no president has made a determination that any of these countries have been engaged in a consistent pattern of acts or intimidation or harassment against individuals in the U.S. under Section 6 of the AECA.³⁸ For example, arms transfer authorizations for Saudi Arabia, the United Arab Emirates, and Egypt amounted to about \$66 billion combined during this period,³⁹ and all three were listed as perpetrating TNR worldwide and against U.S.-based persons in two or more of the three agency and NGO reports we reviewed (see fig. 4). Since there is no requirement that the President report on potential determinations under Section 6 of the AECA, Congress has limited visibility over the extent to which the statute has been considered for these countries or any others.

³⁷Section 6 of the AECA was not a factor in the identification of these foreign governments.

³⁸Not all TNR activities necessarily occur in the U.S. or constitute a “consistent pattern of acts of intimidation or harassment,” which are preconditions to make a determination under Section 6 of the AECA.

³⁹Specifically, the U.S. authorized foreign-funded transfers of about \$10 billion in DCS and about \$35 billion in FMS to Saudi Arabia; authorized foreign-funded transfers of about \$9 billion in DCS and about \$9 billion in FMS to the United Arab Emirates; and authorized foreign-funded transfers of about \$1 billion in DCS and about \$1 billion in FMS, and also authorized about \$3 billion in U.S.-funded FMS to Egypt.

Figure 4: Top 25 U.S. Arms Transfer Recipients (Fiscal Year 2017–2021) and Foreign Governments Named as Transnational Repression (TNR) Perpetrators in Agency and Organization Reports (Issued 2022–2023)



Legend: transnational repression = TNR.

Sources: GAO analysis of Department of Defense data and Department of State Section 655 reports (arms transfer recipient data); GAO analysis of reports by Freedom House and the Departments of State and Homeland Security (data on foreign governments identified as having committed TNR); Map Resources (map). | GAO-24-106183

Notes: The foreign governments identified as having committed TNR in this figure are based on three reports: (1) Freedom House’s April 2023 report on the most prolific perpetrators of direct, physical incidents of TNR worldwide, which defined TNR as governments reaching across borders to silence dissent among diasporas and exiles, including through assassinations, illegal deportations, abductions, digital threats, INTERPOL abuse, and family intimidation; (2) Department of State’s February 2022 cable to diplomatic and consular posts citing countries that are among the most frequent offenders of TNR against individuals in the U.S. and in other countries, which defined TNR as acts by governments, either direct or through others, to intimidate and/or exact reprisal against individuals outside of their sovereign borders, including members of diaspora populations such as political opponents, civil society activists, human rights defenders, and journalists; and (3) Department of Homeland Security’s October 2022 assessment on foreign governments that are routine perpetrators of TNR against U.S.-based persons, which generally defined TNR as the act of a foreign government reaching across national borders, often illicitly, to silence dissent among its diaspora and exile communities.

For this figure, arms transfers include defense articles and services authorized for sale through direct commercial sales as well as defense articles and services that the U.S. government sold to foreign recipients through the Foreign Military Sales program (including U.S.-funded items provided through Foreign Military Financing and other U.S.-funded programs).

Agencies Have Never Halted Arms Transfers on Account of TNR, but State is Developing Procedures to Consider TNR in the Context of Arms Transfers

As of June 2023, none of the agency officials we spoke with had performed any work or were aware of any work their agencies had previously done related to implementing Section 6 of the AECA—such as collecting, sharing, or assessing information for the purposes of informing a potential determination under the statute.⁴⁰ State officials also told us that, to their knowledge as of June 2023, State had not conducted any assessments of TNR information the department has otherwise collected to determine whether Section 6 of the AECA should be implicated. State officials also told us that, to their knowledge, neither State nor the NSC-led interagency working group on TNR have informed the President of consistent patterns of TNR specifically for the purposes of determinations under Section 6 of the AECA. Further, officials from DOD, DOJ, FBI, and DHS told us that they are not aware of any work their agencies have performed directly related to implementing Section 6 of the AECA as of June 2023.

It is also unclear the extent to which agency officials have used Section 6 of the AECA to deter TNR against individuals in the U.S. by communicating the law's restrictions directly to foreign counterparts from governments known to engage in TNR. DOD and State officials in Washington, D.C., said that U.S. officials at embassies in partner nations may have had conversations about Section 6 with foreign counterparts from countries known to engage in TNR, but officials could not identify a documented example of such a conversation. State and DOD officials told us that they communicate directly with foreign governments about human rights in the context of arms transfers, but officials said they did not think such communications generally included explicit discussion of TNR.⁴¹

Beyond Section 6 of the AECA, State officials also told us that they were not aware of the U.S. ever having temporarily halted arms transfers at the

⁴⁰As previously noted, no President has delegated the authority in Section 6 of the AECA, so agencies are not required by law or executive order to perform work related to implementing the statute.

⁴¹Section 6 is not mentioned in standard arms transfer agreements for partner countries. DOD's online guidance for how DOD officials should execute security cooperation and assistance programs mentions Section 6 among a list of 20 justifications for potentially restricting an entity's arms transfer eligibility. However, this document is intended for internal DOD guidance on how to administer arms transfers, as opposed to external communications on arms transfer restrictions. See Table C4.T3. *Reasons for Change of Eligibility Status* at <https://samm.dsca.mil/chapter/chapter-4>.

country level on account of TNR as of June 2023. The U.S. government rarely, if ever, changes a country's overarching arms transfer eligibility status, but rather temporarily halts assistance or denies specific transfer requests, according to State and DOD officials. Specifically, officials said that if any legal or policy-driven restriction on arms transfers were triggered, the U.S. would generally not rescind the country's formal eligibility to receive arms transfers. Instead, officials said the U.S. government would simply halt, or not approve, individual proposed arms transfers to the country until the issue is resolved. However, State officials also told us that they are not aware of an instance of the U.S. halting arms transfers to a country, even temporarily, specifically on the basis of being engaged in TNR.

State officials explained that they may deny specific arms transfers to individual foreign security force units on account of TNR incidents that constitute violations of other arms transfer restrictions, such as the Leahy laws or sexual exploitation or abuse vetting. However, they do not specifically set out to identify acts of TNR during such vetting because it is not legally required, according to State officials.⁴² Additionally, officials were unable to identify any such arms transfer denials related to TNR as of June 2023.

State Leahy vetting focuses on four specific types of gross violations of human rights: torture, extrajudicial killing, enforced disappearance, or rape under color of law. As such, some acts of TNR likely would not result in arms transfer denials under Leahy vetting, according to State officials. Similarly, officials told us that it would be unlikely for State to uncover any instances of TNR when vetting security force units for any credible information that they have engaged in sexual exploitation or abuse.

State officials told us in May 2023 that the department is developing two new measures to consider TNR in the context of U.S. arms transfers. First, State officials told us that, prompted by our inquiry, the department was in the early stages of developing procedures with respect to Section

⁴²See 22 U.S.C. § 2378d (State Department Leahy law). Department of State, Foreign Operations, and Related Programs Appropriations Acts have provided that the Secretary of State shall withhold assistance to any unit of the security forces of a foreign country if the Secretary has credible information that such unit has engaged in sexual exploitation or abuse, including while serving in a United Nations peacekeeping operation. See, e.g., Pub. L. No. 117-328, § 7048(g), and Pub. L. No. 117-103, § 7048(g).

6 of the AECA.⁴³ While they had yet to determine which external entities State will coordinate with to develop and implement these new procedures, officials noted that it would include NSC staff. Officials also said that these procedures may include (a) sharing information relevant to the statute across the department and (b) guidance on how and when to engage other agencies and the White House.

Second, State officials told us they are developing new tools and guidance to align the arms transfer decision-making process with the new considerations in the 2023 CAT policy—including the consideration of the risk that a potential arms transfer will contribute to TNR.⁴⁴ To implement the new CAT policy’s TNR consideration requirement, State officials told us that they plan to solicit information from a variety of sources, including internal sources like the annual human rights reports, regional offices, classified reporting, and country cables from posts. They said they would also use external information sources such as the United Nations, regional organizations, civil society, and media reporting.

Standards for Internal Control state federal entities should use quality information to achieve their objectives.⁴⁵ As noted earlier in this report, agencies such as DOJ and DHS collect information on TNR while carrying out their various missions. Incorporating steps for collecting information from other agencies in its new guidance can provide State with better assurance that it will have quality information available for considering TNR in arms transfer decisions.

Conclusions

TNR can strip away U.S.-based victims’ ability to fully enjoy their rights and freedoms, diminish their personal safety, and pose a threat to U.S. national security, according to government officials and reporting by NGOs and U.S. agencies. In light of recent high-profile cases of TNR against U.S.-based persons, the administration and agencies have acknowledged this threat and emphasized the need to deter repressive

⁴³Congressional records indicate that after Section 6 was passed in 1981, State, DOJ, and the FBI established procedures to collect, share, and analyze information on intimidation and harassment against individuals in the U.S. and for State to make recommendations to the President if evidence indicated a consistent pattern. However, these agencies no longer have these processes in place, based on our discussions with agency officials. *Update on Foreign Agent Harassment of People in the United States: Hearing before the House Subcomms. on Human Rights and International Organizations and on Asian and Pacific Affairs*, 98th Cong. 6-7 (1983) (statement of Jeffrey H. Smith, Assistant Legal Adviser, Department of State).

⁴⁴Memorandum on United States Conventional Arms Transfer Policy, National Security Memorandum-18 (NSM-18) (Feb. 23, 2023).

⁴⁵[GAO-14-704G](#).

governments, promote accountability of perpetrators, and increase protections for victims.

Understanding the nature and extent of TNR against U.S.-based persons is a vital first step to combatting the issue and protecting victims. However, agencies face challenges in quantifying the full extent of TNR, including the underreporting of TNR incidents by victims. While agencies have worked to address these challenges, the lack of common understanding of TNR—particularly among state and local law enforcement—hampers their efforts. Additional steps, such as more training for state and local law enforcement and enhanced interagency collaboration, could help.

Agencies have made efforts to use existing tools to hold individuals who commit acts of TNR against U.S.-based persons accountable. However, DOJ and FBI officials told us that current U.S. criminal statutes are not sufficient for combatting the full range of TNR against U.S.-based persons. In addition, the FBI has informally assessed current legislation to determine what specific gaps, if any, exist, but DOJ has not undertaken a formal, department-wide assessment with the objective of reporting applicable details from the FBI's analysis to the administration or Congress. Developing such a position may help Congress determine whether new legislation is needed to address TNR.

Beyond penalizing individual perpetrators, it is also important to hold foreign governments accountable for acts of TNR against U.S.-based persons. While Section 6 of the AECA offers a potential way to impose accountability for some foreign governments involved in acts of TNR in the U.S., it has never been invoked since its enactment in 1981 and it is unclear whether it has been considered. In recent years, the U.S. has approved tens of billions of dollars in arms transfers to countries that have reportedly engaged in TNR, including some of the largest recipients of those transfers. Should Congress hope to gain additional insight into how (if at all) the statute is being considered, amending the statute's reporting requirement could prove beneficial. In addition, agencies told us that they have never halted arms transfers to any country on account of TNR, but State officials said they are developing new procedures for considering TNR in the context of arms transfers. Coordinating with other agencies that collect information on TNR could help ensure State has the information it needs to make informed decisions for these new efforts.

Matter for Congressional Consideration

If Congress wants additional visibility into considerations of determinations pursuant to Section 6 of the Arms Export Control Act, which prohibits arms transfers to any country determined to be engaged in a consistent pattern of acts of intimidation or harassment against individuals in the U.S., Congress should consider amending the reporting requirement in Section 6 to include any instances where, for example, the President (a) considered, but ultimately declined, a determination, or (b) delegated the determination to an agency. (Matter for Consideration 1)

Recommendations for Executive Action

We are making a total of four recommendations, including two to DOJ and two to State. Specifically:

The Attorney General should ensure that the Assistant Attorney General of the National Security Division and the Director of the Federal Bureau of Investigation, in consultation with the Secretaries of Homeland Security and State, take additional steps to enhance understanding of transnational repression among federal agencies and state and local law enforcement agencies, such as by establishing a formal interagency definition of transnational repression or conducting additional training. (Recommendation 1)

The Attorney General should develop and draft a coordinated, department-wide position on any identified gaps in current legislation for addressing transnational repression and, if appropriate, submit a legislative proposal to the Office of Management and Budget in accordance with OMB Circular A-19. (Recommendation 2)

The Secretary of State should ensure that the Assistant Secretaries for Political-Military Affairs and Democracy, Human Rights, and Labor include steps to coordinate with and collect information on transnational repression from other agencies, such as the Departments of Justice and Homeland Security, in its new transnational repression-related tools and guidance to align the arms transfer decisions-making process with the 2023 Conventional Arms Transfer Policy. (Recommendation 3)

The Secretary of State should ensure that the Assistant Secretaries for Political-Military Affairs and Democracy, Human Rights, and Labor include steps to coordinate with and collect information on TNR from other agencies, such as the Departments of Justice and Homeland Security, in its new procedures specific to Section 6 of the Arms Export Control Act. (Recommendation 4)

Agency Comments and Our Evaluation

We provided a draft of this report to DOJ, State, DHS, DOD, and Commerce for review and comment. DOJ and State provided formal comments, reproduced in appendixes II and III, respectively, and summarized below. DOJ, State, and DHS provided technical comments,

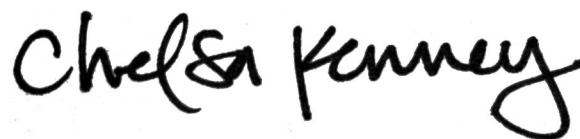
which we incorporated, as appropriate. DOD and Commerce did not have any comments on the report.

In its written comments, DOJ concurred with one recommendation and did not explicitly agree or disagree with another. Regarding the recommendation that DOJ take additional steps to enhance understanding of TNR, the department concurred, and said that it is already taking such steps through various training exercises and outreach. Regarding the recommendation that DOJ develop a department-wide position on any gaps in legislation for addressing TNR and, if appropriate, submit a legislative proposal to OMB, the department said that it would be pleased to consider analyzing potential gaps and developing a coordinated, department-wide position, if appropriate. DOJ noted that it is obligated to abide by the established process for the Executive Branch, including OMB Circular A-19, for the development of legislative proposals and for the clearance of Department and Administration views on such proposals. DOJ further noted that it welcomes requests from Congress for technical assistance on legislative proposals by Congress. We maintain the importance of conducting the analysis and developing a coordinated, department-wide position, which, if appropriate, could result in submission of a legislative proposal to OMB in accordance with the established process.

In its written comments, State concurred with our recommendations and said it will take steps to implement them.

We are sending copies of this report to the appropriate congressional committees, the Attorney General, the Secretaries of State, Homeland Security, Defense, Commerce, and other interested parties. In addition, the report is available at no charge on the GAO website at <https://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (202) 512-2964 or at KenneyC@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix VI.



Chelsa Kenney
Director, International Affairs and Trade

List of Requesters

The Honorable James P. McGovern
Ranking Member
Committee on Rules
House of Representatives

The Honorable Colin Allred
House of Representatives

The Honorable Donald S. Beyer, Jr.
House of Representatives

The Honorable Steve Cohen
House of Representatives

The Honorable Gerald E. Connolly
House of Representatives

The Honorable Sara Jacobs
House of Representatives

The Honorable Ro Khanna
House of Representatives

The Honorable Ted Lieu
House of Representatives

The Honorable Gwen S. Moore
House of Representatives

The Honorable Abigail D. Spanberger
House of Representatives

Appendix I: Objectives, Scope, and Methodology

This report examines the extent to which: (1) U.S. agencies have collected and analyzed information about the nature and prevalence of transnational repression (TNR) against U.S.-based persons;¹ (2) U.S. agencies have used available tools to hold individuals accountable for TNR against U.S.-based persons; and (3) the U.S. government has implemented Section 6 of the Arms Export Control Act (AECA).²

To examine the extent to which U.S. agencies have collected and analyzed information about the nature and extent of TNR directed against U.S.-based persons, we reviewed documentation from agencies and nongovernmental organizations (NGOs) to describe the efforts they have made to collect and assess information about TNR worldwide and against U.S.-based persons, and their findings. We reviewed agency and NGO documentation describing TNR tactics, common perpetrators, and challenges to understanding the prevalence of TNR worldwide and against U.S.-based persons. This included Department of Justice (DOJ) and State press releases about actions taken in response to TNR incidents, DOJ indictments from the Federal Bureau of Investigation's (FBI) TNR webpage, State cables on the topic of TNR, a Department of Homeland Security (DHS) intelligence assessment of the threat of TNR, and Freedom House and the Freedom Initiative reports that include first-hand accounts from victim surveys and interviews. We interviewed agency officials from State, DOJ, FBI, and DHS to understand their efforts to collect and analyze information about the nature and prevalence of TNR against U.S.-based persons, and challenges they face. We compared these agency efforts to understand the extent of TNR against U.S.-based persons with federal internal control standards related to

¹For this report, U.S.-based persons include any U.S. citizen or noncitizen admitted for permanent residence in the U.S., regardless of location; as well as individuals who do not fall into these categories, but who are within the geographic borders of the U.S. (e.g., asylum seekers).

²Section 6 of the AECA states that "No letters of offer may be issued, no credits or guarantees may be extended, and no export licenses may be issued under this chapter with respect to any country determined by the President to be engaged in a consistent pattern of acts of intimidation or harassment directed against individuals in the United States. The President shall report any such determination promptly to the Speaker of the House of Representatives, the Committee on Foreign Affairs of the House of Representatives, and to the chairman of the Committee on Foreign Relations of the Senate." 22 U.S.C. § 2756. For this report, arms transfers include defense articles and services authorized for sale through direct commercial sales as well as defense articles and services that the U.S. government sells to foreign recipients through the Foreign Military Sales program (including U.S.-funded items provided through Foreign Military Financing and other U.S.-funded programs). They do not include transfers under the Department of Commerce's jurisdiction, including less sensitive munitions items, dual-use items, and basic commercial items.

using quality information and GAO's Leading Practices to Enhance Interagency Collaboration related to bridging organizational cultures.³ We also identified among a limited number of NGOs specifically addressing TNR in the U.S. and abroad, then interviewed officials from three NGOs for additional context on the nature and extent of TNR: Freedom House; The Freedom Initiative; and Democracy in the Arab World Now.

To examine the extent to which U.S. agencies have used available tools to hold individuals accountable for TNR against U.S.-based persons, including to describe those tools, we reviewed federal policies and programs that State officials told us they have used to penalize individual TNR perpetrators, including the department's Khashoggi Ban policy,⁴ Section 7031(c) visa restrictions,⁵ and the Global Magnitsky program.⁶ We interviewed State officials to determine how they have used these tools. We also reviewed examples of publicly available indictments and press releases on FBI's TNR webpage to provide illustrative examples of how law enforcement agencies have used available criminal statutes to investigate and prosecute acts of TNR. We interviewed DOJ and FBI officials to determine what types of statutes they have used to investigate and prosecute TNR perpetrators and any related challenges. We compared these efforts with federal internal control standards related to

³GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: Sept. 10, 2014). GAO, *Government Performance Management: Leading Practices to Enhance Interagency Collaboration and Address Crosscutting Challenges*, [GAO-23-105520](#) (Washington, D.C.: May 24, 2023).

⁴Press Statement, Secretary of State Antony J. Blinken, Accountability for the Murder of Jamal Khashoggi (Feb. 26, 2021). See also 8 U.S.C. § 1182 (codifying, in part, section 212(a)(3)(C) of the Immigration and Nationality Act). See Pub. L. No. 82-414, 66 Stat. 182 (1952), as amended.

⁵See Consolidated Appropriations Act, 2023, Pub. L. No. 117-328, § 7031(c), 136 Stat. 5026 (2022); Consolidated Appropriations Act, 2022, Pub. L. No. 117--103, § 7031(c), 136 Stat. 615 (2022); Consolidated Appropriations Act, 2021, Pub. L. No. 116--260, § 7031(c), 134 Stat. 1743 (2020); Further Consolidated Appropriations Act, 2020, Pub. L. No. 116-94, § 7031(c), 133 Stat. 2865 (2019); Consolidated Appropriations Act, 2019, Pub. L. No. 116-6, § 7031(c), 133 Stat. 319 (2019); Consolidated Appropriations Act, 2018, Pub. L. No. 115-141, § 7031(c), 132 Stat. 884 (2018); and Consolidated Appropriations Act, 2017, Pub. L. No. 115-31, § 7031(c), 131 Stat. 640 (2017).

⁶See Global Magnitsky Human Rights Accountability Act, Pub. L. No. 114-328, 130 Stat. 2533, § 1261, et seq. (2016) (referring to 22 U.S.C. § 2304(d)(1) to define gross violations of internationally recognized human rights). See also Exec. Order No. 13818, 82 Fed. Reg. 60839 (Dec. 26, 2017) (relying, in part, on the Global Magnitsky Human Rights Accountability Act for authority and using the terminology "serious human rights abuses").

responding to risks and internally and externally communicating quality information.⁷

To examine the extent to which the U.S. government has implemented Section 6 of the AECA, we interviewed State and DOD officials who oversee the U.S. arms transfer process, and reviewed Executive Orders, Presidential certifications, and State and DOD arms transfer policies, to determine whether any Presidents have made a determination pursuant to Section 6 or whether any authorities under the statute have been delegated to agencies since the law was enacted in 1981. We interviewed State, DOD, DOJ, DHS, and Commerce Department officials, and reviewed historical Congressional records, to determine whether any agencies have any planned, ongoing, or past efforts related to implementing Section 6 of the AECA, such as collecting, sharing, or assessing information for the purposes of informing a potential Presidential determination under the statute. We interviewed State and DOD officials to determine whether officials have communicated with foreign partners about restrictions under Section 6, or whether the U.S. has ever temporarily halted arms transfers to countries or foreign security force units on account of TNR. We compared agency efforts related to TNR in the context of U.S. arms transfers with federal internal control standards related to using quality information.⁸

To provide background information on the top 25 U.S. arms transfer recipients from fiscal years 2017 through 2021, we analyzed State and DOD data. Specifically, we reviewed State's annual Section 655 reports to Congress on defense articles and defense services licensed for permanent export under Section 38 of the AECA for fiscal years 2017 through 2021 to determine the financial value of direct commercial sales

⁷[GAO-14-704G](#).

⁸[GAO-14-704G](#).

(DCS) authorizations to foreign recipients for that time period.⁹ We reviewed data from DOD's Defense Security Assistance Management System on U.S.-funded and foreign-funded defense articles and defense services transferred through the Foreign Military Sales (FMS) program with Letters of Offer and Acceptance implemented from fiscal years 2017 through 2021 to determine the financial value of FMS cases to individual recipients for that time period.¹⁰ We took steps to test the completeness and accuracy of the funding data, such as discussing them with relevant officials and comparing them to other sources, and found the data sufficiently reliable for the purposes of describing the financial value of the top 25 recipients of FMS sales and DCS authorizations from fiscal years 2017 through 2021.

We conducted this performance audit from August 2022 to October 2023 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

⁹Direct commercial sales are those for which a U.S. corporation and a foreign buyer generally negotiate the sale of arms or defense services without an intermediary subject to certain regulations and U.S. government oversight. These foreign buyers must obtain export licenses from the U.S. government which are valid for four years. State's annual Section 655 reports to Congress document defense articles and defense services licensed for permanent export under Section 38 of the AECA, codified as amended at 22 U.S.C. § 2778, to each foreign recipient in response to the requirements in Section 655(b)(3) of the Foreign Assistance Act of 1961, Pub. L. No. 87-195, 75 Stat. 424 (1961), as amended. The value of authorizations for defense articles and defense services in State's Section 655 reports does not correlate precisely to the value of articles actually transferred during the reporting period. We excluded from our analysis direct commercial sales authorizations that were applicable to multiple countries, which were included under the designation "various" in State's Section 655 reports.

¹⁰Foreign military sales are those for which the U.S. government generally acts as an intermediary for the sale, grant, or lease of arms or defense services to a foreign recipient. Some foreign military sales are funded through U.S. grants, including items provided through Department of State's Foreign Military Financing Program and DOD's Building Partner Capacity Programs. The signed Letters of Offer and Acceptance are referred to as "FMS cases," and the individual items or services included for purchase within FMS cases are referred to as "case lines." Letters of Offer and Acceptance are the legal instruments used by the U.S. government to sell defense articles and services to a foreign recipient under authorities provided in the AECA, and when implemented become official tenders by the U.S. government.

Appendix II: Comments from the Department of Justice



U.S. Department of Justice

Justice Management Division

Washington, D.C. 20530

Chelsa Kenney
Director
International Affairs and Trade
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548

Dear Ms. Kenney:

Thank you for the opportunity to review and comment on the Government Accountability Office (GAO) draft report entitled "*Human Rights: Agency Actions Needed to Address Harassment of Dissidents and Other Tactics of Transnational Repression in the U.S.*" (GAO-23-106183SU). The Department of Justice (the Department or DOJ) has reviewed the report and has the following response to GAO's recommendations.

The Department is committed to investigating and bringing appropriate prosecutions against individuals who engage in transnational repression on behalf of repressive regimes. We have brought more than a dozen prosecutions of cases involving such allegations. Additionally, we launched the Disruptive Technology Strike Force, which is led by the Departments of Justice and Commerce and focuses on denying repressive regimes the technologies that they can exploit to oppress dissidents and others beyond their borders. The Department also works with our interagency partners domestically and alongside them in bilateral talks with foreign partners and in multilateral fora to raise the profile of this threat and to encourage our foreign partners to work with us to counter this global threat to our fundamental freedoms.

Recommendation 1: The Attorney General should ensure that the Assistant Attorney General of the National Security Division and the Director of the Federal Bureau of Investigation, in consultation with the Secretaries of Homeland Security and State, take additional steps to enhance understanding of transnational repression among federal agencies and state and local law enforcement agencies, such as by establishing a formal interagency definition of transnational repression or conducting additional training.

DOJ Response: The Department concurs with this recommendation and is already taking steps to enhance the understanding of transnational repression (TNR) through various training exercises and outreach.

Ms. Chelsa Kenney

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Recommendation 2: The Attorney General should develop and draft a coordinated, department-wide position on any identified gaps in current legislation for addressing transnational repression and, if appropriate, submit a legislative proposal to the Office of Management and Budget (OMB) in accordance with OMB Circular A-19.

DOJ Response: The Department would be pleased to consider analyzing potential gaps in current legislation and developing a coordinated, department-wide position on any identified gaps, if appropriate. An agency's decision about whether and how to develop an agency-wide view on a potential legislative proposal requires consideration of many factors, both internally to the agency and in interagency processes. In addition, the Department is obligated to abide by the established process for the Executive Branch, including OMB Circular A-19, for the development of legislative proposals and for the clearance of Department and Administration views on such proposals. However, we continue to welcome requests from Congress for technical assistance on legislative proposals by Congress.

If I may be of further assistance to you, please do not hesitate to contact me. Your staff may also contact Louise Duhamel, Assistant Director, Audit Liaison Group on 202-514-4006.

Sincerely,

JOLENE
LAURIA

Digitally signed by
JOLENE LAURIA
Date: 2023.08.30
17:54:59 -0400

Jolene Ann Lauria
Acting Assistant Attorney General
for Administration

cc: The Honorable Gene L. Dodaro
Comptroller General of the United States
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Assistant Director
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Appendix III: Comments from the Department of State



United States Department of State
Comptroller
Washington, DC 20520

AUG 30 2023

Jason Bair
Managing Director
International Affairs and Trade
Government Accountability Office
441 G Street, N.W.
Washington, D.C. 20548-0001

Dear Mr. Bair:

We appreciate the opportunity to review your draft report, "HUMAN RIGHTS: Agency Actions Needed to Address Harassment of Dissidents and Other Tactics of Transnational Repression in the U.S." GAO Job Code 106183.

The enclosed Department of State comments are provided for incorporation with this letter as an appendix to the final report.

Sincerely,

A handwritten signature in black ink, appearing to read "James A. Walsh".

James A. Walsh

Enclosure:
As stated

cc: GAO – Chelsa Kenney
DRL – Erin Barclay (Acting)
OIG - Norman Brown

Department of State Response to GAO Draft Report

**HUMAN RIGHTS: Agency Actions Needed to Address Harassment of
Dissidents and Other Tactics of Transnational Repression in the U.S.**
(GAO-23-106183SU, GAO Code 106183)

Thank you for the opportunity to comment on your draft report, *“Agency Actions Needed to Address Harassment of Dissidents and Other Tactics of Transnational Repression in the U.S.”*

Recommendation 3: The Secretary of State should ensure that the Assistant Secretaries for Political-Military Affairs and Democracy, Human Rights, and Labor include steps to coordinate with and collect information on transnational repression from other agencies, such as the Departments of Justice and Homeland Security, in its new transnational repression-related tools and guidance to align the arms transfer decisions-making process with the 2023 Conventional Arms Transfer Policy.

Department Response: The Department concurs with this recommendation. The Bureau of Democracy, Labor, and Human Rights (DRL) will coordinate with and collect information on transnational repression from other agencies as appropriate.

Recommendation 4: The Secretary of State should ensure that the Assistant Secretaries for Political-Military Affairs and Democracy, Human Rights, and Labor include steps to coordinate with and collect information on TNR from other agencies, such as the Departments of Justice and Homeland Security, in its new procedures specific to Section 6 of the Arms Export Control Act.

Department Response: The Department concurs with this recommendation and will include steps to coordinate and collect information on TNR from other agencies, as appropriate, for assessment relative to section 6 of the Arms Export Control Act.

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Conclusion: The Department appreciates the opportunity to comment on the draft report and is committed to implementing the two recommendations as part of our continued efforts to counter TNR.

Appendix VI: GAO Contact and Staff Acknowledgements

GAO Contact

Chelsa Kenney, (202) 512-2964, kenneyc@gao.gov

Staff Acknowledgements

In addition to the contact named above, Katie Bolduc (Assistant Director), Bridgette Savino (Analyst-in-Charge), Mario Tiberie, Almir Hodzic, Pamela Davidson, Neil Doherty, Donna Morgan, Gabe Nelson, and Miranda Riemer, made key contributions to this report. Seto Bagdoyan, Grace Lui, Triana McNeil, and Sally Newman, also contributed to this report.

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