



U.S. Department of Justice

Office of Legislative Affairs

Assistant Attorney General

Washington, D.C. 20530

May 7, 2004

VIA FACSIMILE

The Honorable Patrick Leahy
Ranking Member
United States Senate
Committee on the Judiciary
Washington, D.C. 20530

Dear Senator Leahy:

This is in response to your letter of May 7, 2004, in which you seek clarification concerning referrals received by the Department of Justice from the Department of Defense and the Central Intelligence Agency.

An overwhelming amount of media attention has recently focused on the abuse of prisoners by DoD personnel at Abu Ghraib prison in Iraq. Like all Americans, we at the Department of Justice are appalled by the conduct that has been reported in regard to certain prisoners. At a May 5 Judiciary Committee hearing, you asked Christopher Wray, Assistant Attorney General for the Criminal Division, about DOJ's response to the news reports of abuses of Iraqi prisoners, the application of the Military Extraterritorial Jurisdiction Act ("MEJA"), and the allocation of jurisdiction and investigative responsibility between DoD and DOJ regarding civilians accompanying the U.S. Armed Forces. Mr. Wray accurately explained that DOJ was not currently involved in investigations of civilian contractors over whom we would have jurisdiction under MEJA, that such investigations are being conducted by DoD, and that DOJ has not yet received a referral from DoD pertaining to this matter.

Your May 7 letter references two subsequent news articles concerning CIA referrals to DOJ. CIA employees and associated personnel, of course, cannot be prosecuted under MEJA, which provides for DOJ jurisdiction only over former members of the armed forces or civilians employed by or accompanying the armed forces. There is a well-established system for the CIA to refer matters to DOJ where there is reason to believe a federal crime possibly was committed by CIA employees or contractors. Because those matters involve intelligence issues, they are referred to DOJ in classified form. Nevertheless, given your interest in this matter, we have confirmed today that the CIA has no objection to a disclosure that DOJ has received formal referrals for criminal investigation from the CIA pertaining to the treatment of detainees by CIA-associated personnel. We are limited in our ability to discuss the details of these referrals,

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however, because they implicate ongoing investigations and matters which are classified. We understand that the CIA has briefed the Intelligence Committees on these matters.

Rest assured that we share your concerns and shock about the reported mistreatment of detainees and are committed to taking appropriate action within the jurisdiction of the Department of Justice. Please do not hesitate to contact me should you have any additional questions.

Sincerely,

William Moschella
Assistant Attorney General

cc: The Honorable Orrin G. Hatch
Chairman, Committee on the Judiciary