



U.S. Department of Justice
Office of Intergovernmental and Public Liaison

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January 14, 2009

Ms. Hazel Weiser
Executive Director
Society of American Law Teachers
Public Advocacy Center, Touro Law Center
225 Eastview Drive, Room 223
Central Islip, NY 11722

Dear Ms. Weiser:

Thank you for your letter to Attorney General Mukasey, dated August 6, 2008. Your letter requests “independent investigations and, if appropriate, criminal prosecutions of those members of the administration responsible for devising and implementing policies of cruel, inhuman and degrading treatment . . . as part of the “war on terror.” Your letter was forwarded to our office for reply.

As an initial matter, the President has repeatedly stated that the United States does not engage in torture. The Attorney General has frequently testified that torture violates United States law - 18 U.S.C. 2340 - and the Fifth, Eighth, and Fourteenth Amendments to the United States Constitution. Congress, through the Detainee Treatment Act of 2005 (“DTA”), further extended the Convention Against Torture’s prohibition on “cruel, inhuman or degrading treatment” to individuals in United States custody, regardless of location or nationality. The Military Commissions Act of 2006 imposes additional limitations to ensure compliance with Common Article 3 of the Geneva Conventions.

The Attorney General has supported investigations when the facts warrant. For example, after CIA Director Michael Hayden disclosed on December 6, 2007, that certain tapes of detainee interrogations were destroyed, the Department of Justice’s National Security Division and the CIA’s Office of the Inspector General conducted a preliminary inquiry to determine whether a basis existed to initiate a criminal investigation. The National Security Division concluded — and the Attorney General agreed — that such a basis existed and that a criminal investigation should begin. The Attorney General announced the initiation of the criminal investigation on January 2, 2008.

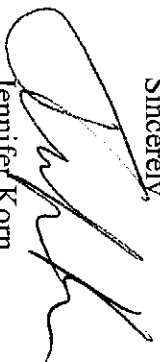
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The Attorney General appointed John Durham, a highly respected and experienced career prosecutor and the First Assistant United States Attorney in the District of Connecticut, to lead this criminal investigation, and directed the Federal Bureau of Investigation to assist Mr. Durham in conducting the investigation. An investigation of this kind, relating to the CIA, would ordinarily be conducted under the supervision of the United States Attorney for the Eastern District of Virginia, the District in which the CIA headquarters is located. The United States Attorney for the Eastern District of Virginia, out of an abundance of caution and to avoid any possible appearance of a conflict with other matters handled by that office, asked to be recused from the investigation of this matter. Consequently, the Attorney General appointed Mr. Durham to serve as Acting United States Attorney for the Eastern District of Virginia for purposes of this matter.

In his twenty-five years of service with the Department, Mr. Durham has investigated and prosecuted numerous complex and important matters, including those relating to organized crime and public integrity. He will follow the facts wherever they lead. As this investigation is ongoing, the Department cannot offer any specific comment regarding its direction or operation.

Thank you for contacting the Department of Justice. Please do not hesitate to contact our office if we can be of further assistance in this or other matters.

Sincerely,



Jennifer Korn
Director