

United States Senate

COMMITTEE ON THE JUDICIARY
WASHINGTON, DC 20510-6275

May 7, 2004

The Honorable John Ashcroft
Attorney General
United States Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

Dear Attorney General Ashcroft:

On Wednesday two of your Assistant Attorneys General appeared before the Senate Judiciary Committee. In light of the reporting about abuses of Iraqi prisoners and the involvement of civilian contractors over the last few days, I asked Mr. Wray what steps the Department was engaging in to investigate these matters, especially in light of congressional enactment of the Military Extraterritoriality Jurisdiction Act four years ago. I understood his response to be that the Justice Department is not currently involved in investigations, that investigations are being conducted by the Defense Department and that the Justice Department is awaiting a referral, if any, from the Defense Department.

The next day's New York Times reported: "The Justice Department is examining the involvement of Central Intelligence Agency officers and contract employees in three suspicious deaths of detainees, two in Iraq and one in Afghanistan, federal law enforcement officials said Wednesday." The article proceeds to explain: "The Justice Department inquiry, which has focused first on what laws may have been violated, means C.I.A. employees or contractors may be prosecuted in civilian courts. . . . The Justice Department's jurisdiction over independent contractors stems from the Military Extraterritoriality Jurisdiction Act, a four-year-old law, untested in court, that gives federal courts jurisdiction over any crimes that may be committed by civilian contractors working with the military abroad."


Friday's Washington Post indicates that you gave a press conference yesterday in which you "declined to discuss any cases under review or to say whether the Pentagon . . . has formally referred any cases to his department." It goes on to report that a "senior intelligence officer" indicated that the CIA in February "sent a report to the Justice Department" regarding the death at Abu Ghraib of Mana Jamidi, whose autopsy indicated that intomal injuries were the cause of death. It also reports that in July 2003 the Justice Department was notified of a case of an Afghani who died in connection with an interrogation "by a retired CIA retiree who was acting as an independent contractor."

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Needless to say, I am disturbed that I received what appear to be less than a complete and truthful answer. I wanted to give you, and Mr. Wray, an opportunity to explain where the truth lies between his testimony before the Committee, the public reports, and the facts.

I would appreciate your responding by return fax by 10 a.m. Monday morning. I thank you for your prompt attention to this matter.

Sincerely,



PATRICK LEAHY
Ranking Democratic Member

cc: The Honorable Christopher Wray

I am concerned about this