



Senator Feinstein Seeks Clear Policy on Torture Overseas

- *Calls for unambiguous rules governing the detention and interrogation of prisoners* -
December 9, 2005

Washington, DC – U.S. Senator Dianne Feinstein (D-Calif.) is urging U.S. Attorney General Alberto Gonzales to address an apparent conflict in statements he made earlier this year and Secretary of State Condoleeza Rice made this week concerning the treatment of U.S. detainees abroad.

In a letter to the Attorney General, Senator Feinstein asked whether the obligations under the U.N. Convention Against Torture (CAT) prohibit cruel, inhumane and degrading treatment if that treatment takes place overseas, as described by Secretary Rice? Or is there in fact “no legal prohibition under the CAT” with respect to aliens overseas, as you stated in your communication?

The following is the text of Senator Feinstein’s letter:

December 8, 2005

The Honorable Alberto Gonzales
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW.
Washington, D.C. 20530-001

Dear Mr. Attorney General,

I am writing you to seek clarification regarding your view of the law governing detention and interrogation of prisoners, as well as of current U.S. policy.

During your confirmation hearings you were asked a number of questions regarding this issue. Specifically, Senator Durbin asked you “whether or not it is legally permissible for U.S. personnel to engage in cruel, inhumane, or degrading treatment that does not rise to the level of torture?”

You did not provide a clear response to that question, and I asked you to explain further, which you did as part of your responses to questions for the record. In that response you wrote:

“... the Department of Justice has concluded that under Article 16 there is no legal prohibition under the CAT on cruel, inhuman or degrading treatment with respect to aliens overseas.”

Earlier this week Secretary of State Condoleeza Rice, in response to similar questions, said: “As a matter of U.S. policy, the U.S. obligations under the CAT, which prohibits cruel, inhumane and degrading treatment --- those obligations extend to U.S. personnel wherever they are.”

These statements, on their face, seem in conflict. Do the obligations under the CAT prohibit cruel, inhumane and degrading treatment if that treatment takes place overseas, as described by Secretary Rice? Or is there in fact “no legal prohibition under the CAT” with respect to aliens overseas, as you stated in your communication?

This issue is not simply an academic question for lawyers. Americans at home, our soldiers in the field, and our allies abroad expect and deserve a clear unambiguous answer to this question.

I know that you, and the President, have stated clearly that it is Administration policy to follow the law and our obligations under treaty. But such a laudable policy presumes that there is a clear understanding of what that law is.

Unfortunately, both the legal and policy issues have become increasingly obscure, and I hope you can provide me with a detailed description of both.

Thank you in advance for your attention to this matter, and I look forward to your response.

Sincerely yours,

Dianne Feinstein
U.S. Senator

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