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United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

WASHINGTON, DC 20510-6250

February 10, 2005

The Honorable Alberto Gonzales
U.S. Department of Justice
Washington, D.C. 20530

Dear Mr. Attorney General:

On February 4, 2005, we asked the Director of the Federal Bureau of Investigation (FBI) to send to the Office of Senate Security, for review by U.S. Senators and staff with appropriate clearances, an unredacted version of a three-page FBI document, dated May 10, 2004, expressing concerns by FBI agents about interrogation practices observed at Guantanamo Bay. This request arose in the course of our Committee's review of the nomination of Judge Michael Chertoff to be Secretary of the Department of Homeland Security.

On February 7, the Department of Justice intervened and sent us a letter stating that an unredacted version of the document "cannot be released," primarily because it contains "information covered by the Privacy Act." The purpose of this letter is to urge reconsideration of the decision to withhold the information.

The Privacy Act, 5 USC 552a, is designed primarily to prevent the U.S. government from disclosing personal information about private individuals without their consent; it was never intended to be used to conceal information about how public officials conduct government business. The government employees whose names were redacted observed, were informed about, and reacted to, the interrogation techniques in their governmental capacities. Citing the Privacy Act to justify concealing the names of such government employees is an abuse of the statute and sets a dangerous precedent never intended by the law.

The DOJ letter to us also states that the document "contains no reference to [Judge Chertoff] by name or otherwise." This statement, however, does not address whether any individuals under Judge Chertoff's direct supervision were among those informed about the Guantanamo Bay interrogations. The Department should not be preventing Congress from obtaining this information by concealing the names of the government personnel involved.

Sincerely,



Joe Lieberman



Carl Levin

JL/CL:ejb
cc: Senator Susan Collins