



U.S. Department of Justice
Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

December 16, 2004

The Honorable Patrick J. Leahy
Ranking Minority Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

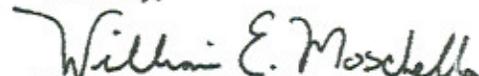
Dear Senator Leahy:

This letter responds to your letter dated October 29, 2004, requesting copies of Office of Legal Counsel (OLC) opinions regarding "the treatment and interrogation of prisoners in U.S. custody overseas."

As we have indicated in connection with earlier requests for OLC opinions, our longstanding practice followed by Attorneys General of both parties is that non-public OLC opinions are not disclosed outside the Executive Branch. The Executive Branch has substantial confidentiality interests in OLC opinions. They consist of confidential legal advice, analysis, conclusions and recommendations for the consideration of senior Administration decision-makers. The disclosure of OLC opinions that have not been determined to be appropriate for public dissemination would harm the deliberative processes of the Executive Branch and disrupt the attorney-client relationship between OLC and Administration officials. These confidentiality interests are especially great with respect to OLC opinions addressing issues arising in connection with the discharge of the President's constitutional authority as Commander in Chief. It is critical to the discharge of the President's constitutional responsibilities that he and the officials under his supervision be able to receive confidential legal advice from OLC. We appreciate your interest in these matters and your understanding of the corresponding Executive Branch interest in the confidentiality of non-public OLC opinions.

We hope that this information is helpful. If you would like assistance regarding any other matter, please do not hesitate to contact this office.

Sincerely,


William E. Moschella
Assistant Attorney General

cc: The Honorable Orrin G. Hatch
Chairman