



U.S. Department of Justice

Office of Legal Counsel

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Office of the Assistant Attorney General

Washington, D.C. 20530

June 10, 2004

Scott W. Muller, Esq.
General Counsel
Central Intelligence Agency
Washington, D.C. 20505

Dear Scott:

By a letter dated March 2, 2004, you asked me to "reaffirm" three pages of bullet points, entitled "Legal Principles Applicable to CIA Detention and Interrogation of Captured Al-Qa'ida Personnel." You indicated that our Office had approved these bullet points in June 2003.

~~(TS)~~

I have further inquired into the circumstances surrounding the creation of the bullet points in the spring of 2003. These inquiries have reconfirmed what I have conveyed to you before, namely, that the bullet points did not and do not represent an opinion or a statement of the views of this Office. ~~(TS)~~

As I previously advised you, to respond to your current request for an opinion, my Office will first need your views in writing on the legal questions to be addressed. The longstanding practice of our Department and our Office is to require such an expression of views from an agency seeking our written opinion. The practice extends at least as far back as 1924, when Attorney General Stone issued a letter to all cabinet officers and the Secretary to the President, requesting that agencies submit "the written opinion of the chief law officer of the Department, Board, Bureau, or Commission, based upon the facts and documents" when asking for the opinion of the Attorney General. Letter for Government Officials, from Harlan F. Stone, Attorney General (Sept. 15, 1924) (emphasis deleted). This Office now carries out the Attorney General's opinion-writing function, 28 C.F.R. 0.25(a), and follows the same procedure. The requirement of an opinion from the requesting agency helps to ensure the completeness and legitimacy of the process by which our Office issues opinions. To be sure, our Office has not applied the policy with complete uniformity, especially where operational needs have made such a process impractical or where the White House Counsel, OMB, or our own Department is the

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requester. Nevertheless, this practice seems particularly prudent here, where the issues deserve the fullest exploration, and where many of the facts and practices necessary for the analysis fall within your expertise. ~~(TS/~~

I look forward to hearing from you so that we may proceed as expeditiously as possible on your important request.

Sincerely,



Jack L. Goldsmith III

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