

687476

REPLY TO:

- 135 HART SENATE OFFICE BUILDING
WASHINGTON, DC 20610-1501
(202) 224-3744
TTY: (202) 224-4479
e-mail: chuck_grassley@grassley.senate.gov
- 721 FEDERAL BUILDING
210 WALNUT STREET
DES MOINES, IA 50309-2140
(515) 284-4890
- 206 FEDERAL BUILDING
101 1ST STREET SE.
CEDAR RAPIDS, IA 52401-1227
(319) 363-6832

United States Senate

CHARLES E. GRASSLEY

WASHINGTON, DC 20610-1501

October 18, 2004

REPLY TO:

- 103 FEDERAL COURTHOUSE BUILDING
320 8TH STREET
SIOUX CITY, IA 51101-1244
(712) 233-1860
- 210 WATERLOO BUILDING
531 COMMERCIAL STREET
WATERLOO, IA 50701-5497
(319) 232-6657
- 131 WEST 3RD STREET
SUITE 180
DAVENPORT, IA 52801-1419
(563) 322-4331
- 307 FEDERAL BUILDING
8 SOUTH 6TH STREET
COUNCIL BLUFFS, IA 51501-4204
(712) 322-7103

Mr. William E. Moschella
 Assistant Attorney General for Office of Legislative Affairs
 U.S. Department of Justice
 Office of Legislative Affairs
 950 Pennsylvania Avenue, NW, Room 1145
 Washington, D.C. 20530

Dear Mr. Moschella:

FOIA Exemption (b)(6)

Enclosed please find a communication from [REDACTED]
 regarding the Office of Legal Counsel August 2002 memo defining
 what is legal and illegal torture.

I would appreciate any assistance you could provide pertaining to
 this matter. Please mark your return correspondence to the
 attention of Curtis Philp when responding to my office.

Thank you for your attention to my request.

Sincerely,



Charles E. Grassley
 United States Senator

CEG/cp
 Enclosure

RECEIVED
 DEPT OF JUSTICE
 2004 NOV -8 PM 12:31
 EXECUTIVE SECRETARIAT

CHAIRMAN,
FINANCE

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 JUDICIARY
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CHAIRMAN,
 INTERNATIONAL NARCOTICS
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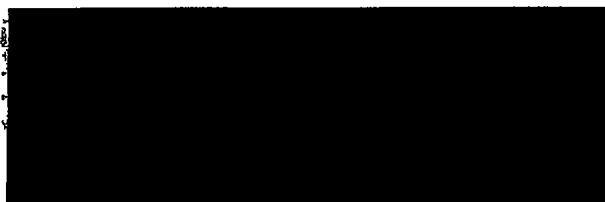
04 SEP 22 AM 12:35

Senator Grassley,

The Office of Legal Council August 2002 memo that explains what constitutes ~~leg~~ legal and illegal torture is troubling. This memo says that only acts equivalent in intensity to that which causes organ failure is a criminal violation of the Geneva Accords or international law. This is troubling.

What is the US Government definition of torture when it applies in international law? Which US Government prisoners can be legally tortured under international law?

FOIA Exemption (b)(6)





U.S. Department of Justice
Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

December 17, 2004

The Honorable Charles E. Grassley
United States Senate
Washington, D.C. 20510-1501

Attn.: Curtis Philp

Dear Senator Grassley:

FOIA Exemption (b)(7)(C)

This is in response to your letter forwarding an inquiry from [REDACTED]

[REDACTED] asked for "the US Government definition of torture when it applies in international law." The United States is a party to the U.N. Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, *adopted* Dec. 10, 1984, S. Treaty Document No. 100-20 (1988), and the Convention includes a definition of torture as

any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.

Art. 1 at 19. In ratifying this Convention, the United States adopted the following understanding of what constitutes torture:

[T]he United States understands that, in order to constitute torture, an act must be specifically intended to inflict severe physical or mental pain or suffering and that mental pain or suffering refers to prolonged mental harm caused by or resulting from: (1) the intentional infliction or threatened infliction of severe physical pain or suffering; (2) the administration or application, or threatened administration or application, of mind altering substances or other procedures calculated to disrupt profoundly the senses or the personality; (3) the threat of imminent death; or (4) the threat that another person will imminently be subjected to death, severe physical pain or suffering, or the administration or application of mind altering

The Honorable Charles E. Grassley
Page Two

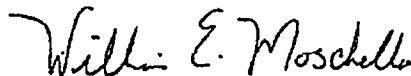
substances or other procedures calculated to disrupt profoundly the senses or personality.
136 Cong. Rec. 36198 (1990). This understanding sets the terms of the United States'
obligations under the Convention.

FOIA Exemption (b)(6)

also asks "[w]hich US Government prisoners can be legally tortured
under international law." International law, as well as the law of the United States, forbids
torture.

Please let us know if we may be of further assistance.

Sincerely,



William E. Moschella
Assistant Attorney General