

Congress of the United States

Washington, DC 20515

April 30, 2009

The Honorable Hillary Rodham Clinton
United States Secretary of State
United States Department of State
2201 C Street NW
Washington, DC 20520

Dear Secretary Clinton:

We write seeking access to an important State Department memorandum necessary for the Judiciary Committee's ongoing investigation into the role of Justice Department lawyers in approving interrogation practices of the former Administration. This document may also shed significant light on the role played by State Department experts in the interagency process that led to the implementation of these practices, a matter of substantial interest to the Foreign Affairs Committee and its Subcommittee on International Organizations, Human Rights, and Oversight.

Last week, Philip Zelikow, former Counselor to Secretary of State Condoleezza Rice, wrote that, in May 2005, he authored and circulated to the National Security Council Deputies Committee a memorandum dissenting from the Justice Department's conclusion that certain interrogation practices were lawful.¹ As Professor Zelikow recounts, he believed that the Justice Department's memoranda on this subject had "grave weaknesses" and reached "unsustainable" views, and that he felt "obligated to put an alternative view in front of my colleagues at other agencies."

It is deeply unfortunate that Professor Zelikow's reported views were not heeded at the time by the former Administration's legal advisors and policymakers. As described by Professor Zelikow, however, other aspects of their response to his dissenting memorandum appear even more troubling. Professor Zelikow recounts: "My colleagues were entitled to ignore my views. They did more than that: The White House attempted to collect and destroy all copies of my memo."

¹Zelikow, *The OLC "Torture Memos,"*: *Thoughts From A Dissenter*, Shadow Government blog at Foreign Affairs, available at http://shadow.foreignpolicy.com/posts/2009/04/21/the_olc_torture_memos_thoughts_from_a_dissenter

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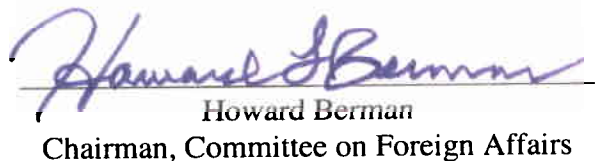
Because this memorandum may shed important light on the process by which these interrogation practices were evaluated, approved, and implemented by the former Administration, a matter the Congress continues to investigate, we request copies of the memorandum described by Professor Zelikow that may be retained in State Department archives. (Despite the reported effort he describes to destroy all copies of the memorandum, Professor Zelikow nevertheless believes that "one or two [copies] are still at least in the State Department's archives.") To the extent this memorandum remains classified despite the public release of related Justice Department memoranda, we are happy to make appropriate security arrangements.

Thank you very much for providing the requested memorandum as soon as possible, and we hope to receive it no later than Thursday, May 7, 2009. Please direct your response and any questions to the Judiciary Committee office at (202) 225-3951, fax (202) 226-7680.

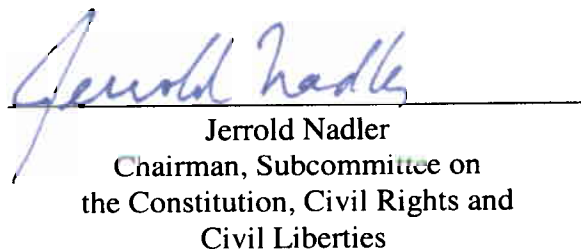
Sincerely,



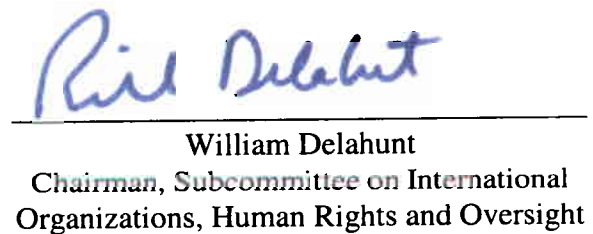
John Conyers, Jr.
Chairman, Committee on the Judiciary



Howard Berman
Chairman, Committee on Foreign Affairs



Jerrold Nadler
Chairman, Subcommittee on
the Constitution, Civil Rights and
Civil Liberties



William Delahunt
Chairman, Subcommittee on International
Organizations, Human Rights and Oversight

cc: Hon. Lamar Smith
Hon. James Sensenbrenner
Hon. Ileana Ros-Lehtinan
Hon. Dana Rohrbacher
Mr. Jack Lew
Mr. Richard Verma