

United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

September 14, 2005

The Honorable Alberto R. Gonzales
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

Dear Judge Gonzales:

In connection with the nomination of Timothy E. Flanigan to serve as Deputy Attorney General, we request that you provide to members of the Senate Judiciary Committee a Justice Department opinion on the legality of specific interrogation techniques.

In a July 25, 2005 letter, we asked Mr. Flanigan to provide us with this opinion (letter attached). In an August 3, 2005 letter, Mr. Flanigan stated that he could not comply with our request because he did not have access to the opinion (letter attached).

Mr. Flanigan acknowledged at his confirmation hearing that, while you served as White House Counsel and he served as Deputy White House Counsel, you were both briefed on the Justice Department's opinion regarding the legality of specific interrogation techniques.

As we noted in our July 25, 2005 letter, the Justice Department acknowledged the existence of the opinion on specific interrogation techniques in a February 1, 2005 letter to Judiciary Committee Chairman Arlen Specter (letter attached). The Justice Department stated that the opinion was "appropriately provided by the client agency in a classified setting to the relevant oversight committee."

The Judiciary Committee has jurisdiction over the Justice Department and is "the relevant oversight committee" regarding legal opinions issued by the Justice Department. Therefore, the Justice Department opinion on the legality of specific interrogation techniques should be provided to members of the Judiciary Committee, in a classified setting if necessary.

In addition to our oversight responsibilities, we need to review the opinion in order to fulfill our constitutional obligation to consider Mr. Flanigan's record carefully before voting on his nomination.

Thank you for your prompt response to this request.

Sincerely,



Richard J. Durbin



Edward M. Kennedy



Russell D. Feingold

Attachments

cc: The Honorable Arlen Specter, Chairman, Senate Committee on the Judiciary
The Honorable Patrick J. Leahy, Ranking Member, Senate Committee on the
Judiciary