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February 9, 2004

The Honorable John Ashcroft
Attorney General
Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

Dear Attorney General Ashcroft:

We have reviewed the Office of the Inspector General's (OIG) Supplemental Report dated December 2003 regarding allegations of abuse at the Metropolitan Detention Center (MDC) in New York. Among other things, this report augments information previously learned from the OIG analysis of the responses provided by the Department of Justice and the Department of Homeland Security to the recommendations made in the OIG's April 2003 (released in June 2003) report: *The September 11 Detainees: Treatment of Aliens Held on Immigration Charges in Connection with the Investigation of the September 11 Attacks*.

Inspector General Glen Fine previously advised in a September 5, 2003 letter to the Committee that both agencies were taking the recommendations seriously, but that a significant amount of work remains. A review of an OIG follow-up analysis of the actions taken by the Department of Justice (DOJ) in response to the recommendations indicates that the DOJ is moving in the right direction. This communication, dated January 5, 2004, advises that the Department of Homeland Security (DHS), Office of the Inspector General, is now responsible for monitoring the DHS's implementation of the recommendations made to them.

While the adoption of these recommendations will alleviate some of the issues that arose from the implementation of the detention policy, the December 2003 supplemental report fortifies our concerns regarding prisoner abuse. We understand the circumstances that prompted your efforts to detain individuals on immigration charges in the aftermath of the terrorist attacks of September 11, 2001 and are pleased to hear that the Department of Justice has taken "significant and responsible" steps toward implementing changes suggested by the OIG. The OIG is to be commended for the thoroughness of its investigation, however, we believe more information or corroboration could have been developed, or at least developed sooner, had the FBI investigations been conducted contemporaneously with the allegations of abuse.

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We are interested in learning more about the actions of the FBI to timely investigate or interview certain victims. Specifically, we are interested in learning why, according to the April 2003 report, the FBI did not attempt to locate or interview detainee complainants that had been removed either prior to the FBI receiving the case or, as was apparently the case in one instance, removed subsequent to the FBI receiving the case. The April 2003 OIG report indicates that the correctional officers involved in these matters were not interviewed either.

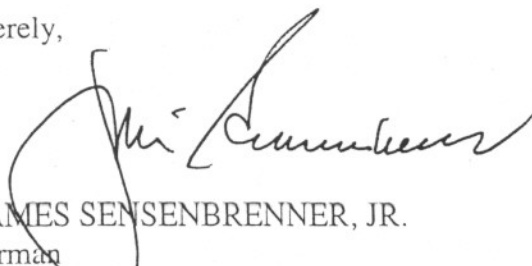
We would like more information regarding why, as of March 19, 2003, the FBI had conducted no interviews of either the detainees or the officers in this matter, which was referred to the FBI in July 2002. Why was there such a delay? Were the interviews ever subsequently conducted by the FBI?

We find particularly troubling, the revelations in the December 2003 supplemental report that attorney-client communications were recorded without regard to established procedures for such conduct, that employees may have intentionally lied during the OIG inquiry, and that the (MDC) refused or otherwise failed to turn over video tapes after several attempts by the OIG to obtain them. This failure to surrender evidence certainly hampered the OIG investigation and stymies the oversight activities of the Judiciary Committee. What explanation was given by officials from the MDC for the difficulty the OIG experienced in getting access to these tapes? Was any MDC employee held accountable for the delay the OIG encountered? What steps has the MDC taken to ensure that they comply in a timely manner with official requests made during the course of a lawful investigation?

We look forward to hearing from you and to reviewing the progress made in implementing the OIG recommendations as they relate to improving future performance and disciplining those responsible for past misdeeds. We request that any information regarding the initial delayed investigations, any new or contemplated policies and/or training initiatives (whether in final form or draft) addressing the future handling of detainees housed in high security environments, and the intentions of the Department of Justice regarding the imposition of discipline of any individuals identified by the OIG for involvement in abusive conduct, be conveyed to the Committee no later than March 31, 2004.

Thank you for your prompt attention to this matter. If you have any questions please contact Katy Crooks or Beth Sokul at the Subcommittee on Crime, Terrorism, and Homeland Security, 202-225-3926.

Sincerely,



F. JAMES SENSENBRENNER, JR.
Chairman



JOHN CONYERS, JR.
Ranking Member