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United States Senate
WASHINGTON, DC 20510-2102

FAX

To: Assistant Secretary Kelly

Fax No. 202 647-1418

Date: 1/22/2003

Pages (excluding cover): 2

Comments: _____

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Thank you.

UNITED STATES DEPARTMENT OF STATE
REVIEW AUTHORITY: SHARON E AHMAD
DATE/CASE ID: 30 SEP 2004 200303827

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COMMITTEE ON FOREIGN RELATIONS
WASHINGTON, DC 20510-6225

July 23, 2004

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LEGISLATIVE AFFAIRS

The Honorable Colin L. Powell
Secretary of State
Washington, DC 20520

Dear Mr. Secretary:

On June 22, 2004, the White House released several internal Administration documents regarding the treatment of enemy prisoners and combatants.

Included among these documents are several memoranda prepared by the Office of Legal Counsel at the Department of Justice; I have a particular interest in learning the Department's views about two of these memos. The first, dated January 22, 2002, is entitled "Application of Treaties and Laws to al Qaeda and Taliban Detainees"; the second, dated August 1, 2002, is entitled "Standards of Conduct for Interrogation under 18 U.S.C. 2340-2340A."

I write to pose several questions:

1. Was the Department of State involved in the preparation of either of these memoranda? If not, when did the Department learn of their existence?
2. Does the Department of State agree with the conclusion, set forth in the memorandum of January 22, 2002, that the President could have decided to suspend temporarily U.S. obligations under the Third Geneva Convention with regard to Afghanistan? If so, please explain the legal basis for that opinion.
3. Does the Department of State agree with the analysis of the Convention Against Torture set forth in part II of the memorandum of August 1, 2002, at pages 14-22? Is this analysis consistent with the Department's prior interpretations of the Convention, including any authoritative representations made to the Senate during its consideration of the Convention?

I appreciate your attention to this request.

Sincerely,

Joseph R. Biden, Jr.
Joseph R. Biden, Jr.
Ranking Member

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