

United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

May 11, 2004

The Honorable Donald Rumsfeld
Secretary of Defense
1000 Defense Pentagon
Washington, D.C. 20301

Dear Secretary Rumsfeld:

We write to you regarding the importance of protecting whistleblowers within the Department of Defense (DOD). Press reports indicate that the investigation into the abuse of Iraqi detainees in Abu Ghraib prison was initiated by tips from two whistleblowers. We are strong advocates for ensuring appropriate protections to those who have the courage to come forward and report government misconduct. Whistleblowers have held government accountable and instigated significant reform in recent history. The examples are legion.

As the investigation into Abu Ghraib continues, it is important that members of the Armed Services and others working in Iraq know that they can come forward with information about possible misconduct without placing their positions in peril or being adversely affected. It is critically important, therefore, that the Department of Defense send a strong message to encourage witnesses to speak out and to ensure that such persons are not retaliated against or otherwise punished for their resolve.

In this regard, as I am sure you are aware, the Armed Forces Protected Communications Act, 10 U.S.C. Section 1034, protects any member of the Armed Forces who comes forward with information about possible government misconduct to members of Congress or to an inspector general. A similar law protecting federal contractors is codified under 10 U.S.C. Section 2409. Under this law, members of the Armed Services may not be subject to reprisal for informing members of Congress about "abuse(s) of authority" or "violation(s) of law or regulation."

We also seek your personal assurance that the Department of Defense will ensure that no prohibited personnel actions, or otherwise, are taken, directly or indirectly, by any DOD employee, civilian or military against any possible witness in this matter of national and international import.


In addition, we want confirmation that the Defense Department Office of Inspector General's new civilian whistleblower czar – Mr. Daniel Meyer, Director for Civilian Reprisal Investigations – has oversight jurisdiction under Title 5 of the U.S. Code over the DOD Civilian Appropriated-Funded employees working in the Excepted services.

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This jurisdiction should include the National Security Agency and the Service intelligence agencies, as well as the DOD civilians working in Iraq as for the Coalition Provisional Authority and its successor.

Your prompt response is greatly appreciated.

Sincerely,


PATRICK LEAHY
United States Senator


CHARLES GRASSLEY
United States Senator