



July 28, 2009

Attorney General Eric Holder
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530-0001

Dear Attorney General Holder:

I am writing to express concern that serious allegations of torture committed by U.S. government contractors in Iraq and Afghanistan seem to have been largely ignored by the Department of Justice (DOJ).

Only through the DOJ Office of Legislative Affairs' February 7, 2008 response to Senator Richard Durbin's January 10, 2008 letter of inquiry have we come to know that 24 cases of detainee abuse have been transferred to the Eastern District of Virginia (EDVA), but 22 were dismissed and two are still pending. Information about possible additional cases brought to the DOJ's attention is not publicly available. We urge you to reexamine these cases and bring about a public and transparent conclusion to them.

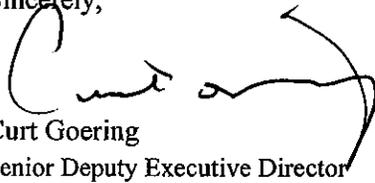
Efforts to find explanations as to why these cases have been dismissed or left interminably "open" were met with difficulty and frustration. Since June 24, 2008, the UNROW Human Rights Impact Litigation Clinic at American University, partnered with Amnesty International USA, submitted 29 separate Freedom of Information Act (FOIA) requests to 18 DOJ components to discover why these cases have not been prosecuted or investigated. After more than ten months, UNROW recovered one FedEx airbill receipt and a largely redacted complaint form. Please find attached an executive summary and timeline of the FOIA requests written by the Becca Eden, student attorney and member of the UNROW Clinic.

If cases of violent crimes have been dismissed or left "open" without adequate inquiry, we ask that you reexamine these cases, renew investigations, and file charges where appropriate. If indeed the dismissal of 22 cases and inconclusive disposition of two were warranted, then the DOJ must be transparent and disclose the nature of the allegations and the reasons for such decisions on these and any other cases referred to it. To effectively propose solutions, lawmakers need to know about the types of alleged criminal activities and any obstacles to prosecution of human rights violators. At a minimum, the DOJ should provide the U.S. government the opportunity to develop the capacity to bring justice and accountability to U.S. military, security and intelligence contracting, an industry in which human rights abuses seem to be committed with impunity.

Cont....

We certainly hope that under the new administration, cases of torture and abuse by contractors will be reopened with a possibility for prosecution.

Sincerely,



Curt Goering
Senior Deputy Executive Director

Encl.

- UNROW Clinic's executive summary of FOIA requests
- UNROW Clinic's timeline of FOIA requests

UNROW

HUMAN RIGHTS

IMPACT

LITIGATION

CLINIC

EXECUTIVE SUMMARY of FOIA REQUESTS

WRITTEN BY BECCA EDEN, STUDENT ATTORNEY AND MEMBER OF UNROW HUMAN RIGHTS
IMPACT LITIGATION CLINIC

Last summer, the UNROW Human Rights Impact Litigation Clinic partnered with Amnesty International USA to discover why reports of detainee abuse by civilian contractors have transpired without investigation or prosecution.

On June 24, 2008, UNROW Clinic submitted 28 Freedom of Information Act requests to federal agencies and agency components, including 18 components of the Department of Justice (DOJ), seeking any records relating to investigations of civilian contractor involvement in detainee abuse in Iraq and Afghanistan. As of March 9, 2009, one DOJ component, Criminal Division, has recovered two responsive documents but withheld one document in its entirety. UNROW Clinic appealed the withholding of that document, but has not received a response to its appeal. Two components, Civil Division and Office of Legal Policy (OLP), have stated that they have found no responsive documents and closed the request. The OLP request closure was appealed and there has been no further communication. UNROW Clinic does not contest the closure of the Civil Division Request.

The remaining components have failed to respond within the statutory guidelines. Due to this failure, UNROW Clinic has constructive exhaustion and may commence litigation to compel production of the requested records.

On December 9, 2008, UNROW Clinic submitted 36 more FOIA requests regarding violent crimes committed by civilian contractors, interpretation and application of the Military Extraterritorial Jurisdiction Act, and contract renewal procedures regarding civilian contractors operating overseas. UNROW Clinic submitted 11 of these requests to DOJ components.

Two components, Executive Office for U.S. Attorneys and FBI Headquarters, have adversely responded, erroneously requiring UNROW Clinic to tailor the request to each component's specific databases. UNROW Clinic has appealed these responses. The Executive Office of U.S. Attorneys partially granted that appeal and stated it would first search U.S. Attorneys' offices in the District of Columbia, the Southern District of New York, and the Eastern District of Virginia, and the Executive Office, before it determined which other offices to search. UNROW Clinic appealed this determination and named three other locations where civilian contractors have been prosecuted for violent crimes. The Eastern District of Virginia notified UNROW Clinic that it had not found any responsive documents, and UNROW Clinic is in the process of appealing that adverse determination. One component, Office of the Inspector General, produced a single responsive document.

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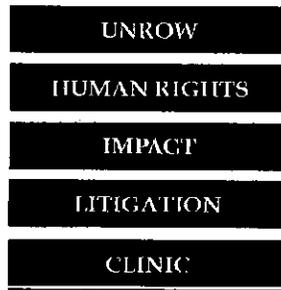
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UNROW HUMAN RIGHTS IMPACT LITIGATION CLINIC
EXECUTIVE SUMMARY of FOIA REQUESTS
BECCA EDEN
PAGE 2

Seven of the requests submitted on December 9, 2008, have not garnered any response from an agency component. Due to this failure to respond, UNROW Clinic again has constructive exhaustion and may commence litigation to compel production of the requested records. After more than a year, UNROW Clinic has recovered one FedEx airbill receipt and one largely redacted complaint form from its 29 separate FOIA requests to DOJ components.

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**FOIA REQUESTS TO DEPARTMENT OF JUSTICE
COMPONENTS TIMELINE**

- 24 June 2008** UNROW Clinic faxes and mails Freedom of Information Act requests for records regarding investigations of civilian contractor involvement in detainee abuse in Iraq and Afghanistan to 28 federal agencies and agency components, including 18 components of Department of Justice.
- 25 June 2008** Office of the Inspector General acknowledges receipt of the FOIA request. As of July 22, 2009, UNROW Clinic has received no further communication from OIG office concerning this request.
- 7 July 2008** Civil Division states that it cannot process the request without specific identifiers, such as party names.
- 7 July 2008** Federal Bureau of Investigations informs UNROW Clinic that the request submitted to the Norfolk Field Office has been referred to FBI Headquarters.
- 8 July 2008** Executive Office for United States Attorneys states that the request is being processed.
- 9 July 2008** Criminal Division acknowledges receipt of the FOIA request.
- 10 July 2008** Criminal Division suggests that a request be submitted to the National Security Division, a component to which UNROW Clinic had already submitted a request.
- 11 July 2008** National Security Division acknowledges receipt of the FOIA request.
- 15 July 2008** Office of Information and Privacy informs UNROW Clinic that it will be unable to comply with the twenty-working-day statutory requirement and that it will be responding on behalf of the Offices of the Attorney General, Deputy Attorney General, Associate Attorney General, Legislative Affairs and Legal Policy.

- 22 July 2008** EOUSA acknowledges receipt on behalf of the Office of the United States Attorney of Eastern District of Virginia and states that individual offices do not process FOIA requests and EOUSA will respond to the request.
- 11 August 2008** EOUSA states it will consolidate the two requests it is processing and it will not be able to comply with the statutory time requirements.
- 20 August 2008** OIP confirms a phone conversation clarifying the records requested via letter.
- 22 August 2008** OIP sends an interim response on behalf of the above-mentioned components, except for the Office of Legal Policy. The letter states that no responsive records were located at OLP and that the request will be closed.
- 3 September 2008** Civil Division states it is closing the FOIA request after the request was not tailored to its particular database system.
- 6 October 2008** Office of Legal Counsel states that it has not located any responsive records and informs UNROW Clinic of its right to an administrative appeal.
- 21 October 2008** UNROW Clinic mails a request for reconsideration of the closure of the OLP request to Carmen Mallon, Chief of Staff at OIP, and an appeal of the same closure to Janice McLeod, Associate Director of OIP.
- 23 October 2008** Criminal Division states it has located only two responsive documents, including a completely withheld e-mail and an airbill from FedEx.
- 9 December 2008** UNROW Clinic mails and faxes a request to Office of Legal Policy regarding the Military Extraterritorial Jurisdiction Act, 18 U.S.C. § 3261. As of July 22, 2009, UNROW Clinic has received no further communication from OLP regarding this request.
- 9 December 2008** UNROW Clinic faxes and mails FOIA requests for records regarding investigations of violent crimes committed by private civilian contractors in Iraq and Afghanistan to 31 federal agencies and agency components, including 11 components of Department of Justice.
- 16 December 2008** FBI responds that the request “does not contain enough descriptive information to permit a search” of its records.
- 23 December 2008** Criminal Division acknowledges receipt of the December 9 FOIA request.
- 23 December 2008** OIG acknowledges receipt of the December 9 FOIA request.

- 24 December 2008** EOUSA states that the December 9 request is being processed.
- 26 December 2008** UNROW Clinic mails an appeal regarding the Criminal Division request to OIP. As of July 22, 2009, UNROW Clinic has not received a response to this appeal.
- 6 January 2009** EOUSA states it cannot conduct the search for records requested on December 9 until UNROW Clinic specifies a specific EOUSA office and advises UNROW Clinic of its right to an administrative appeal.
- 9 January 2009** UNROW Clinic receives an undated letter from FBI Headquarters stating the December 9 request “does not contain enough descriptive information to permit a search” of its records.
- 15 January 2009** OIG responds to the December 9 FOIA request and includes one responsive document, a partially redacted Complaint Form alleging fraud, waste and abuse against a contractor, filed by one of its contract employees.
- 7 March 2009** UNROW Clinic appeals the closure of the EOUSA and contests the requirement that the request specify an EOUSA office.
- 18 May 2009** EOUSA partially grants UNROW Clinic’s appeal and states that it will first search U.S. Attorneys’ offices in the District of Columbia, the Southern District of New York, and the Eastern District of Virginia, and the Executive Office, before it determined which other offices to search.
- 21 May 2009** OLP informs UNROW Clinic that it has denied its appeal.
- 26 May 2009** National Security Division responds that it has “encountered a delay” in searching for responsive records and will notify UNROW Clinic when the search is complete.
- 23 June 2009** The U.S. Attorney’s Office in the Eastern District of Virginia informs UNROW Clinic that it has located no responsive records.
- 15 July 2009** UNROW Clinic appeals EOUSA’s partial granting of its appeal and reminds EOUSA of its obligation to search any location that could contain a responsive record, including locations like Washington State, North Carolina and Arizona, where civilian contractors have been prosecuted for violent crimes.

22 July 2009

As of this date, UNROW Clinic has not received any response or acknowledgement of its December 9 FOIA request from the following components:

- Office of Legal Policy
- Office of Deputy Attorney General
- Office of Associate Attorney General
- Office of Legislative Affairs
- National Security Division
- Office of Legal Counsel
- U.S. Attorney's Office, Eastern District of Virginia

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