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The Honorable Donald Rumsfeld
Secretary of Defense
The Pentagon
Washington, DC 20301

March 11, 2003

Dear Secretary Rumsfeld:

We write to express our grave concerns about allegations that U.S. forces have mistreated security detainees who are being interrogated in Afghanistan and elsewhere. In writing to you, we seek your personal attention to these matters, and that necessary corrective actions are taken.

Recent reports in the news media, including articles in the *Wall Street Journal*, *Washington Post*, *Los Angeles Times* and *New York Times*, quote U.S. military officials as saying that they are employing so-called “stress and duress” techniques to elicit information from detainees. These articles report allegations of both physical and psychological mistreatment. Among the illegal interrogation techniques described in these articles are physical beatings, depriving wounded prisoners of adequate pain control medicines, making prisoners stand or crouch in painful positions for prolonged periods, hooding and sleep deprivation.

We urge you to address these issues personally and publicly by making clear the unambiguous U.S. prohibition against all forms of torture and other cruel, inhuman and degrading treatment or punishment. As you know, these practices are strictly prohibited under international laws, to which the United States is a party, including the Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (the Torture Convention) and the International Covenant on Civil and Political Rights.

The use of torture also violates a 1994 U.S. federal law that explicitly provides penalties of fines and up to 20 years imprisonment for acts of torture committed by U.S. officials outside of the U.S. (18 U.S.C. § 2340 A).

As you also know, many practices that do not constitute “torture” are still strictly prohibited as “other acts of cruel and inhuman or degrading treatment or punishment” under article 16 of the Torture Convention. When the Senate ratified this treaty it construed this language as applying standards that are consistent with U.S. domestic legal principles.

These standards have been interpreted carefully by international courts and in national courts for more than 25 years. These decisions provide ample legal guidance as to which practices are legally permissible, and which are not. One important decision was the Israeli Supreme Court’s 1999 *Judgment Concerning the Interrogation Methods Implied [sic] by the General Security*

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Services. Two decisions by the European Court of Human Rights — *Ireland v. United Kingdom* and *Selmouni v. France* — also provide important guidance.

Although some administration officials have stated broadly that security detainees are being treated in conformity with relevant law, these assurances are undermined by frequent press accounts of comments by U.S. military and intelligence officers at Bagram and elsewhere. In one particularly troubling development at the interrogation center at Bagram in Afghanistan, U.S. military authorities have reported that two Afghan detainees died last December while in custody.

We welcome the news that U.S. military authorities are now conducting a criminal investigation into these deaths. The findings of this investigation should be made public. If the investigation concludes that the deaths of these two detainees were in any way linked to ill-treatment by U.S. personnel, the responsible individuals should be prosecuted to the full extent of U.S. law.

We are also deeply concerned about press reports suggesting that a number of security detainees are “rendered,” or handed over, for questioning to foreign intelligence services in countries such as Egypt, Morocco or Jordan. Some Department of Defense officials have refused either to admit or deny that such transfers are occurring.

As you know, it is also a violation of U.S. law to transfer anyone from U.S. custody to a country where he or she is likely to be subjected to torture or other cruel, inhuman or degrading treatment. We urge you to issue a clear public statement prohibiting U.S. officials from rendering any detainees to countries where they are likely to face such ill-treatment.

Finally, representatives of the International Committee of the Red Cross have reported in the press that they do not have access to all detainees in U.S. military custody, a prohibition that is itself a violation of the Geneva Convention. Barring the International Committee of the Red Cross from its customary role in meeting with these detainees is likely to lead some to infer that the U.S. government seeks to hide unlawful interrogation practices. It is of the utmost importance that the Defense Department guarantees the ability of Red Cross representatives to meet with all detainees.

We urge you to give these important matters immediate attention. We would welcome the opportunity to discuss these matters further with you or other representatives of the Department of Defense.

Respectfully yours,

A handwritten signature in black ink that reads "Mike Posner". The signature is written in a cursive, slightly slanted style.

Michael H. Posner
Executive Director