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April 14, 2010

The Honorable Eric H. Holder, Jr.
Attorney General
U.S. Department of Justice
950 Pennsylvania Ave., NW
Washington, DC 20530-0001

Dear Mr. Attorney General:

I write to ask that the Department of Justice provide this Committee with information about efforts the Department is undertaking to investigate alleged actions which, if proved true, will almost certainly endanger individuals associated with the Central Intelligence Agency (CIA).

According to press reports, at the behest of defense attorneys some covert CIA employees and/or contractors, have been surreptitiously photographed in public while they undertake routine personal activities. The defense attorneys have allegedly shown these photographs to detainees held at Guantanamo Bay. The apparent purpose of this effort is to allow the detainees to identify covert intelligence operatives with whom they may have been in contact with at Guantanamo. Assuming this is the case, then it is possible that the identifications have become known outside Guantanamo, including by members of terrorist groups.¹ If this is true, it is intolerable and must be addressed.

I understand that the CIA is greatly alarmed by the prospect of this brazen act. So am I. If terrorists at Guantanamo have learned the secret identity of agency operatives, the safety of the operatives and their families could be at risk. *Newsweek* has reported on the fear that the photographs could result in "agents becoming the targets of [al] Qaeda revenge plots," and the magazine quoted one former official expressing "real concern" about this hazard. "These guys are killers—and KSM has made it clear they're going to look for retribution," the official declared, using the initials of the alleged mastermind of the 2001 attacks.²

¹ Peter Finn, "Detainees Shown CIA Officers' Photos; Justice Dept. Looking Into Whether Attorneys Broke Law at Guantanamo," *Washington Post*, 21 August 2009; Bill Gertz, "Justice, CIA clash over probe of interrogator IDs" *Washington Times*, 15 March 2010; Bill Gertz, "Gitmo suspects allowed laptops while in custody," *Washington Times*, 19 March 2010; Stuart Taylor, "Gitmo Lawyers and CIA Photos; Patrick Fitzgerald's investigation into how a 9/11 defendant got photos of CIA interrogators raises interesting questions," *National Journal*, 27 March 2010; Bill Gertz, "CIA says ACLU-backed plan endangered Gitmo officers," *Washington Times*, 31 March 2010.

² Michael Isikoff and Mark Hosenball, "Holder Taps Fitzgerald for Gitmo Photo Probe," *Newsweek*, 19 March 2010.

The recent suicide bombing in Moscow demonstrates the danger. According to media accounts, employees of Russia's intelligence agency were the intended victims of this attack because of their efforts to counter militant Islamist organizations. "[S]py services have become priority targets for militant groups," said another U.S. intelligence official quoted by the *Washington Post*, "since spies are at the forefront of the counterterrorist campaigns. . . . [t]he more effective they are, the more likely they are to be targets." Equally disturbing, the newspaper also indicates that, "militant groups are also becoming more skilled at stalking their pursuers."³

Press reports indicate that Patrick Fitzgerald, the United States Attorney for the Northern District of Illinois, has been asked to investigate whether the alleged actions involving the CIA and detainees was illegal. Presumably, this includes a consideration of whether defense attorneys and sympathetic photographers colluded in a prohibited act of providing material support to terrorists, in the revelation of the identity of covert intelligence operatives in violation of the Intelligence Identities Protection Act, or in contravention of other laws.

In light of all of these matters, I seek to learn more about the resources made available to Mr. Fitzgerald and how his work will be insulated from the influence of Department Justice political appointees who may have had some connection with the issues before assuming their current roles. News stories have indicated that one appointee has already recused himself from involvement. I am certain you are eager to establish other arrangements which make a distinction between those Department appointees who earlier performed legal work for detainees from any attorneys potentially implicated in the investigation about the photographs. I am eager to learn about these arrangements. Please understand that in seeking all this information my goal is only to be assured that Mr. Fitzgerald has received what is necessary to perform his work; I do not desire information about the scope, pace, direction, or substance of any investigation, nor do I intend my request to interfere with it in any way.

Therefore, I respectfully request answers to the following:

1.) Has Patrick Fitzgerald been asked to undertake an inquiry related to the possible revelation of covert identities approximately as described above? If not, please explain.

2.) Assuming an affirmative answer to question 1 what additional institutional and/or budgetary allocations have been made to Mr. Fitzgerald to allow him to properly undertake any inquiries? If Mr. Fitzgerald believes now or in the future the resources available to him are inadequate, what mechanism exists for him to receive the requested resources?

3.) Assuming an affirmative answer to question 1, what arrangements have been instituted to ensure that political appointees in the Department of Justice (including but not limited to the Office of Attorney General and the National Security Division) who may have had

³ Greg Miller and Peter Finn, "Suicide bomber hit station next to Russia's top security agency," *Washington Post*, 30 March 2010.

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some association with the issues under investigation prior to assuming their positions are insulted from reviewing, evaluating, influencing the inquiry being undertaken by Mr. Fitzgerald?

I ask that responses to these questions be provided to me by April 23, 2010.

I trust you understand the general oversight role this Committee is authorized pursuant to House Rule X and the extraordinary attention paid by this Committee in the past to allegations that government officials publicly revealed the identity of a covert CIA employee. The issues raised in this letter are entirely consonant with this jurisdiction and past practice.

Questions on this letter can be directed to Thomas Alexander, Senior Counsel, at (202) 225-5074.

Sincerely,



Darrell Issa
Ranking Member

Cc: The Honorable Edolphus Towns, Chairman