



DEPARTMENT OF THE ARMY
Office of The Judge Advocate General
2200 Army Pentagon
Washington, DC 20310-2200

REPLY TO
ATTENTION OF:

September 15, 2006

Office of The Judge Advocate General

Honorable John Warner
Honorable John McCain
Honorable Lindsey Graham
United States Senate
Washington, D.C. 20510

Gentlemen:

Thank you for your continued interest in the views of The Judge Advocates General regarding proposed legislation clarifying the War Crimes Act, the Detainee Treatment Act, and the treaty requirements of Common Article 3 of the Geneva Conventions.

I have not objected to those portions of the administration's proposed legislation that attempt to clarify the obligations of the United States under Common Article 3 of the Geneva Conventions. It would be preferable, however, for Congress to remain silent on the definition of Common Article 3, while enumerating the serious offenses under the War Crimes Act so that there is greater clarity as to what constitutes "grave breaches" of Common Article 3. Definition of "serious crimes" derived from Common Article 3 completes our obligation to "enact legislation necessary to provide effective penal sanctions for . . . grave breaches," which is a requirement of all four Geneva Conventions.

I believe that further redefinition of Common Article 3 is unnecessary and could be seen as a weakening of our treaty obligations, rather than a reinforcement of the standards of treatment contained in Common Article 3. This could cause reciprocal action by other signatories, which is particularly problematic while we are at war. Congress can best assist the uniformed services in this process by defining which violations of Common Article 3 are serious crimes under the War Crimes Act.

Sincerely,

Scott C. Black
Major General, U.S. Army
The Judge Advocate General