February 19, 2008

The Honorable Richard Durbin  
United States Senate  
Washington, DC  20530

The Honorable Sheldon Whitehouse  
United States Senate  
Washington, DC  20530

Dear Senators Durbin and Whitehouse:

This is in response to your February 12, 2008, letter to me and  
H. Marshall Jarrett, Counsel for the Department of Justice’s (DOJ) Office of  
Professional Responsibility (OPR). In your letter, you request that the Office of  
the Inspector General (OIG) and OPR investigate the role of DOJ officials in  
authorizing or overseeing the use of waterboarding by the Central Intelligence  
Agency.

I appreciate your asking the OIG to review this issue. However, under  
current law, the OIG does not have jurisdiction to review the actions of DOJ  
attorneys acting in their capacity to provide legal advice. Legislation that  
would remove this limitation has passed the House and is pending in the  
Senate, but at this point the OIG does not have the jurisdiction to undertake  
the review you request.

In addition, I understand that OPR has an ongoing review that is  
examining DOJ’s legal advice regarding these issues, and OPR’s review will  
address the issues your letter raises. It is also my understanding that OPR  
Counsel Jarrett intends to respond to your letter directly.

Please contact me if you have any questions about this letter or the work  
of the OIG.

Sincerely,

Glenn A. Fine  
Inspector General

cc:  H. Marshall Jarrett