



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

October 7, 2011

The Honorable Patrick J. Leahy
Chairman
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

The Honorable Dianne Feinstein
Chairman
Select Committee on Intelligence
United States Senate
Washington, D.C. 20510

Dear Chairman Leahy and Chairman Feinstein:

We write to convey our strong support for S. 1145, the Civilian Extraterritorial Jurisdiction Act ("CEJA"). As the United States draws down its military forces in Afghanistan and Iraq, and increasing numbers of non-military personnel take their place, it is more important than ever that the United States have the ability to hold all U.S. Government employees and contractors accountable for serious criminal misconduct committed abroad. CEJA ensures proper accountability while, at the same time, providing appropriate protections to individuals engaged in authorized intelligence activities.

S. 1145 would close significant gaps in the law that hamper our ability to investigate and prosecute criminal conduct committed by U.S. Government personnel and contractors who operate abroad. These gaps create an inconsistency in Federal law with very troubling results. For example, under current law, a U.S. Government employee who sexually assaults a foreign national in the employee's diplomatic residence may be prosecuted for committing a crime, while the very same person might be immune from United States prosecution if he commits the same crime in the victim's apartment. Similarly, if the assault is committed by a civilian contractor whose employment "relates to supporting the mission of the Department of Defense overseas," that contractor could be prosecuted in U.S. courts. A civilian contractor whose employment is *unrelated* to the mission of the Department of Defense could not be subject to

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United States prosecution. We do not believe accountability for criminal conduct should turn on the location in which the crime occurs or the terms of one's employment.

Filling in the gaps in existing law is in the interests of the United States and our personnel and contractors abroad. The absence of U.S. jurisdiction to prosecute serious crimes creates legal uncertainty and can expose American civilians to prosecution by nations whose laws and judicial systems are less transparent and offer fewer legal protections than our own.

At the same time, CEJA includes an exemption for "authorized intelligence activities," to ensure that individuals engaged in intelligence activities abroad are not subject to liability for activities authorized in a manner consistent with United States law. The exemption will ensure that CEJA does not create uncertainty for field operatives and does not negatively affect intelligence operations.

CEJA is a crucial tool for maintaining equal accountability for equal criminal misconduct committed overseas. Without it, ever growing numbers of United States employees and contractors will be effectively immune from prosecution for acts of serious criminal misconduct committed abroad. We urge the Congress to pass this important legislation expeditiously.

Thank you for the opportunity to present our views. The Office of Management and Budget has advised us that, from the standpoint of the Administration's program, there is no objection to the submission of this letter.

Sincerely,



Ronald Weich
Assistant Attorney General

cc: The Honorable Chuck Grassley
Ranking Member
Committee on the Judiciary
United States Senate

The Honorable Saxby Chambliss
Vice Chairman
Senate Select Committee on Intelligence
United States Senate