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## United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

BRUCE A. COHEN, *Chief Counsel and Staff Director*  
BRIAN A. BENCKOWSKI, *Republican Staff Director*

November 18, 2009

The Honorable Eric Holder  
Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, D.C. 20530-0001

The Honorable Janet Napolitano  
Secretary  
Department of Homeland Security  
Nebraska Avenue Complex  
245 Murray Lane, Mailstop 0150  
Washington, DC 20528-0150

Dear Attorney General Holder and Madam Secretary:

At today's Department of Justice oversight hearing, Senator Cornyn asked three simple, but very significant questions, about the immigration status of Khalid Sheikh Mohammed (KSM) and other detainees once they are brought to the United States for criminal trial. Specifically, what immigration status will they hold and what legal rights will flow from that status? Can KSM and other detainees file a claim for asylum or request that they not be removed based on the Convention Against Torture? What are the legal implications for filing (or precluding filing) of such claims?

As you can imagine, even if they are not ultimately eligible for relief, terrorist detainees may seek legal rights under our immigration laws or assert such rights in federal court, thereby setting a precedent that could have grave consequences for the American public. These consequences should weigh heavily in any decision President Obama and the administration make about transfer of these detainees to the United States.

Thank you and we look forward to your prompt response.

Sincerely,

