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Bush nominee parries torture queries

Would-be chief of homeland security says he did not discuss details of interrogations

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Washington -- Homeland security secretary nominee Michael Chertoff said at his Senate confirmation hearing Wednesday that he did not give U.S. intelligence officials specific advice in 2002 when they asked him which interrogation techniques used on alleged terrorists might someday be prosecuted as illegal torture.

Chertoff was responding to repeated questions from Democratic senators who asked him whether he knew about aggressive and possibly improper interrogation methods used by U.S. forces on detainees when he was a top Justice Department official. He said he did not know and did not recall which interrogation methods were discussed then.

Now a federal appeals court judge in New Jersey, Chertoff, 51, was treated cordially even by Democrats on the Senate Homeland Security and Governmental Affairs Committee who asked him about his record as head of the Justice Department's criminal division from 2001 to 2003. His approval is all but assured when the committee votes, probably Monday, and leaders of both parties say the full Senate is almost certain to confirm him soon after that.

The hearing did not feature the kinds of heated exchanges that occurred last month when Democrats on the Senate Judiciary Committee questioned White House counsel Alberto Gonzales, President Bush's nominee to be attorney general, about his role in Bush administration memos defining torture and approving some interrogation techniques.

Questioned pointedly by Sen. Carl Levin, D-Mich., about what he told intelligence lawyers who asked him what interrogation methods might violate U. S. laws barring torture, Chertoff said that he could not recall his precise words, but that in general he refused to discuss "hypothetical" cases.

"I was not prepared ... to approve things in advance or to give people speculative opinions that they might later take as some kind of a license to do something," Chertoff said in reply to Levin.

He said his essential message to intelligence officials was: "If you are dealing with something that makes you nervous, you'd better make sure you are doing the right thing."

Asked about a legal memo by another branch of the Justice Department at the time that allowed some harsh interrogation tactics and narrowed the definition of torture, Chertoff said: "I do not believe that definition is a sufficiently comprehensive definition of torture."

Levin also asked Chertoff whether he recalled hearing about FBI officials' complaints as early as 2002 that military interrogators abused some detainees at a U.S. military prison for suspected terrorists at Guantanamo Bay, Cuba.

The senator showed Chertoff a heavily edited internal FBI memo written last year that recalled bureau officials' observations in 2002 that military and FBI interrogators employed differing techniques when interrogating the detainees at Guantanamo. Chertoff replied that he had no memory of hearing then that torture was used at Guantanamo, "or anything approaching torture."

The memo, obtained by the American Civil Liberties Union under the Freedom of Information Act, said that at some point, FBI officials had discussed with lawyers in the Justice Department's criminal division the ineffectiveness of some military interrogation techniques in producing reliable information.

Chertoff said he was unaware of any discussion of harsh methods being employed at Guantanamo while he ran the criminal division.

Sen. Joe Lieberman, D-Conn., asked Chertoff about his thoughts on the FBI's controversial detention of more than 700 Muslim foreign citizens on immigration violations for an average of nearly three months after the Sept. 11 attacks. A critical report by the Justice Department's inspector general released in 2003 said many of the foreigners were prevented from contacting attorneys for weeks, and none was prosecuted for terrorist-related crimes. Some were beaten or abused in prison, the report said.

Chertoff said that he did not know in 2001 and 2002 that many of the detainees had been barred from reaching lawyers and that "it clearly shouldn't have happened." Despite the questioning, Chertoff received effusive praise from all of the Republicans on the committee and from some Democrats. He was introduced at the hearing by the Democratic senators from his home state of New Jersey, Frank Lautenberg and Jon Corzine.