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Former Military Leaders Oppose Gonzales Nomination

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A dozen former military officers, including retired Army General John Shalikashvili, are opposing the nomination of White House Counsel Alberto Gonzales to be U.S. attorney general because he endorsed detaining suspected terrorists without protections accorded prisoners of war.

The officers want lawmakers to question Gonzales about his 2002 legal opinion that the Geneva Conventions for war prisoners don't cover combatants captured in Afghanistan or al-Qaeda operatives seized around the world since the Sept. 11, 2001, terrorist attacks. Besides Shalikashvili, former chairman of the Joint Chiefs of Staff, the group includes retired Brigadier General James P. Cullen, who was chief judge of the U.S. Army's Court of Criminal Appeals.

The Senate Judiciary Committee will hold a hearing Jan. 6 on Gonzales's nomination by President George W. Bush to succeed Attorney General John D. Ashcroft. Democrats led by Vermont Senator Patrick Leahy say they will ask Gonzales to explain his role in drafting policies that they say spawned the prisoner abuse scandal at the Abu Ghraib prison in Iraq and at the U.S. Naval Base at Guantanamo Bay, Cuba.

"The kinds of things that Mr. Gonzales espouses are the very sort of things that are the first step on a slippery slope that compromises the rule of law in this country," retired Marine General Joseph P. Hoar, former commander of the U.S. Central Command, said in an interview.

Senate Confirmation

Gonzales's appointment is subject to confirmation by the Republican-controlled Senate.

In his Jan. 25, 2002, memo to Bush, Gonzales, 49, said the "new paradigm" of the war on terror "renders obsolete Geneva's strict limitations on questioning of enemy prisoners and renders quaint some of its provisions requiring that a captured enemy be afforded such things as commissary privileges" and other amenities of prisoner-of-war camps.

Without ruling on the Geneva Conventions, the U.S. Supreme Court held last June that more than 500 prisoners at Guantanamo Bay could go to federal court to challenge their incarceration.

Photos of U.S. soldiers abusing Iraqi detainees at the Abu Ghraib prison outside Baghdad sparked worldwide outrage in April. Defense Secretary Donald Rumsfeld and other officials told Congress that prisoner abuse was largely limited to a small group of soldiers.

Pattern of Assaults

Still, civil rights groups last month released FBI e-mails and internal memos detailing a two-year pattern of assaults, use of dogs during interrogations and threatened executions of prisoners at Guantanamo. The FBI records were obtained by the American Civil Liberties Union in a lawsuit.

Former Justice Department official John Yoo, in an article published Sunday in the San Jose Mercury News, defended Gonzales. "Aggressive measures" adopted by the administration "are necessary to protect America from another terrorist attack," said Yoo, a law professor at the University of California at Berkeley.

In a report released today, the ACLU said Gonzales's role in advising Bush on prisoner detention "deserves the closest scrutiny" by the Senate "particularly because of the nexus between the creation of many of these policies and the abuse scandal at Abu Ghraib prison."

Religious Leaders

A group of 225 religious leaders plans a conference call with reporters tomorrow to urge Gonzales to denounce the use of torture under any circumstances. Hoar and Cullen are also scheduled to speak in Washington tomorrow at a news conference organized by Human Rights First.

In a letter to be sent to the Judiciary Committee, Hoar said he, Cullen and others who are being asked to sign on will urge the committee to question Gonzales closely about both the detention and interrogation policies and the legal opinion by a Justice Department lawyer that the president, as commander in chief, wasn't bound by international law.

Cullen, now a partner at the New York law firm of Anderson, Kill & Olick, said in an interview that Gonzales showed poor judgment in writing the memo because it endorsed a proposal "to depart from our obligations under the Geneva Conventions, which he deemed quaint and perhaps obsolete."

Gonzales's attempt to place detention policies outside the Geneva Conventions to avoid subjecting military personnel to prosecution under the War Crimes Act is "unbecoming of the United States" and anyone who would be attorney general, said retired Rear Admiral John D. Hutson, former judge advocate general of the Navy.

'Shortsighted' View

Hutson, now dean of the Franklin Pierce Law Center in Concord, New Hampshire, said Gonzales's legal analysis "was shortsighted" because "it didn't look over the horizon" to a time when U.S. forces will want to rely on the protections of the Geneva Conventions for its troops.

"This isn't the last war we are going to fight," Hutson said. "Once you say the Geneva Conventions are quaint and obsolete, you can't undo that."

Cullen said he is also concerned that Gonzales tried "to usher through a redefinition of torture." An Aug. 1, 2002, Justice Department memo to Gonzales stated that some mental and physical pain during interrogation might not "rise to the level of torture" under the U.S. military code.

"Physical pain amounting to torture must be equivalent in intensity to the pain accompanying serious physical injury, such as organ failure, impairment or bodily function, or even death," said the memo, written by then-Assistant Attorney General Jay S. Bybee.

A new Justice Department legal opinion made public last week rescinds this definition of torture. The change "doesn't protect Gonzalez. It indicts him," Hutson said.

Leahy said the department's latest opinion is welcome but doesn't go far enough in repudiating the use of torture.

"The question is why it took two years to get to this point," Leahy said in a statement. "It also is no coincidence that this turnaround has suddenly appeared on the eve" of the Gonzales hearings, he said.