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Leahy Questions Gonzales Memo

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The ranking Democrat on the Senate Judiciary Committee said yesterday that Attorney General-designate Alberto Gonzales will have to explain his White House role in developing policies for the treatment of prisoners held by the U.S. military.

"The scandal of Abu Ghraib, allegations of mistreatment at Guantanamo, and investigations and charges from cases in Iraq and Afghanistan are serious matters with lingering questions and unresolved accountability in their wake," said Sen. Patrick J. Leahy of Vermont.

"The Bush administration circled the wagons long ago and has continually maintained that the abuses were the work of 'a few bad apples.' But we know that the photos from Abu Ghraib do not depict an isolated incident," Mr. Leahy said.

President Bush nominated Mr. Gonzales, White House counsel, on Nov. 10 to succeed Attorney General John Ashcroft, who resigned just after Election Day. Mr. Bush said at the time that Mr. Gonzales' "sharp intellect and sound judgment" helped shape the nation's war on terror "to protect the security of all Americans, while protecting the rights of all Americans."

Although his confirmation seems assured -- both Republicans and Democrats have endorsed him -- Mr. Gonzales, 49, is likely to face stiff questioning during January hearings over his role in a White House opinion on legal and treaty requirements on the treatment of prisoners in Afghanistan and Iraq.

Critics, including liberal organizations, have said the memo led to the abuse of war prisoners at the Abu Ghraib facility near Baghdad -- an accusation denied by the Bush administration.

In a January 2002 legal opinion, the White House Counsel's office suggested that Mr. Bush, as commander in chief, was not restricted by prohibitions on torture of prisoners as defined by U.S. law and under international treaties such as the Geneva Conventions, owing to the president's "complete authority over the conduct of war."

"The war against terrorism is a new kind of war, a new paradigm that renders obsolete Geneva's strict limitations on questioning of enemy prisoners and renders quaint some of its provisions," the memo said.

Mr. Leahy met with Mr. Gonzales -- who would be the nation's first Hispanic to hold the country's top law-enforcement position -- last month and said he looked forward to "prompt, fair and thorough hearings on this important nomination." But he said questions need to be asked to discover who set into motion a process at Abu Ghraib and elsewhere that "rolled forward until it produced this scandal.

"Even without a truly independent investigation, we now know the responsibility for abuse runs high up into the chain of command. Senior officials in the White House, the Justice Department and the Pentagon set in motion a systematic effort to minimize, distort and even ignore our laws, policies and agreements on torture and the treatment of prisoners," he said.

In a letter last week, Mr. Leahy said he encouraged Mr. Gonzales to be forthcoming during the confirmation hearings.

In the letter, which was released by Mr. Leahy's office, the senator also said actions approved by the administration included the forcible expulsion of persons to nations where they may face torture and the hiding of "ghost detainees" from the International Committee of the Red Cross.

The letter also said Mr. Leahy had asked Mr. Gonzales on two other occasions as White House counsel to describe his role in the interpretation of the law as well as the development of policies that led to what the senator and others considered a disregard for the rule of law. He said those letters went unanswered.

"You will be called upon to explain in detail your role in developing policies related to the interrogation and treatment of foreign prisoners," he said. "The American public and the Senate ... deserve to know how a potential attorney general, the chief law enforcement officer in the nation, will interpret and enforce the laws."