

Statement of

The Honorable Herb Kohl

United States Senator
Wisconsin
January 26, 2005

Nomination of Alberto Gonzales to be Attorney General of the United States
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Thank you, Mr. Chairman. In many ways, Judge Gonzales' life story is the American dream - rising from humble beginnings to being nominated to be our Attorney General. Yet, Judge Gonzales must be evaluated on more than his life story; indeed the decisions he has made in his public capacity must be closely scrutinized. He is, after all, asking us to confirm him as the nation's chief law enforcement officer.

We begin with a standard of granting deference to the President to surround himself with the people he chooses for his Cabinet. Yet, that deference is not absolute. After all, the Attorney General is not the President's lawyer, but the people's lawyer. As we listened to this nominee's answers at the hearing, read his responses to our additional questions and examined the facts, we found that our deference was challenged. Indeed, we are being asked to confirm the Administration's chief architect of its legal policies in the war on terror -- policies with questionable legal support that have proven harmful to the conduct of the war and injured our reputation abroad.

We must expect more from our Attorney General. The war on terrorism has proven more clearly now than ever before that the Justice Department's mission is too central to our democracy to be entrusted to someone who leaves us with such doubt. As the President's chief legal officer in the White House, Judge Gonzales' advice sadly fell short time and again. For these reasons, I must vote no.

A closer examination of the Administration's legal policies demonstrates why we have reached this conclusion. Over the strong objections of Secretary of State Powell, career military lawyers, and others with great expertise, Judge Gonzales advised the President to deny prisoners the protections of the Geneva Conventions. Others warned Judge Gonzales that this advice could undermine military culture, generate confusion about how to treat detainees, and ultimately lead to abuse. We now know that their worst fears were warranted.

His role in shaping the policy on torture was similarly regrettable. The 'torture memo' that was drafted at Judge Gonzales' request stood as Administration policy for two years. The Defense Department used the memo's disturbing conclusions to justify abusive interrogation techniques.

These policies have consequences. To defeat terrorism, the 9/11 Commission concluded that, we must win the war of ideas in the Muslim world. The importance of this recommendation cannot be emphasized enough. Undermining our fundamental commitment to due process, failing to honor our international agreements, and flouting our laws prohibiting torture and war crimes harms that effort.

Judge Gonzales' performance at the hearings did little to alleviate our concerns. We heard him condemn torture, generally, but refuse to discuss what he thought constituted torture. We heard him commit to honor our international agreements, but waffle when asked when they apply. We heard him denounce the abuses that were committed in Iraq, but refuse to discuss whether they might be illegal. We heard him commit to hold anyone involved responsible for their actions, but repeat predetermined conclusions about what happened and who was to blame.

When asked by members of this Committee about his views on these policies and his role in shaping them, Judge Gonzales either could not remember or was non-responsive. When asked about whether he thought torture was ever productive, after more than two years of participating in discussions on the subject, he told the Committee, "I have no way of forming an opinion on that." He admits to attending meetings where specific methods of torture were discussed, but told the Committee that he can not recall anything that was said. His evasiveness was not an encouraging preview of his ability to be candid with the American people about the basis of the decisions he will be responsible for making as our Attorney General.

This has not been an easy decision to reach. We hope that if Judge Gonzales is confirmed, he will prove us wrong. For now, however, our doubts are too great to support his nomination.