

Statement of

The Honorable John Cornyn

United States Senator
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When President Obama nominated Eric Holder to be the next Attorney General of the United States, I approached the nomination with an open mind and a determination to ask--and demand answers to--the serious questions raised by his record. I believe that the Senate's constitutional duty of advice and consent requires nothing less.

Mr. Holder's tenure as Deputy Attorney General provides the nearest thing to a dress rehearsal for his possible role as Attorney General. For more than three years, Mr. Holder served as the number two official in the Department of Justice. In this role, he had tremendous power and dealt with many of the same issues that he might face as Attorney General. Regrettably, I have come to the conclusion that some of Mr. Holder's actions as Deputy Attorney General during the Clinton Administration demonstrate that he is not ready for a promotion.

After carefully studying Mr. Holder's record as Deputy Attorney General, I was left with doubts about his judgment and his independence from the political wishes of his higher-ups within the Clinton Administration. I was also concerned that Mr. Holder's record demonstrated a failure to understand the profound threat posed by radical Islamic terrorism. And I was further troubled by his apparent hostility to the constitutional right to keep and bear arms.

In the end, Mr. Holder's answers to the questions posed by this Committee failed to alleviate my concerns. Indeed, his answers sometimes went to great lengths to avoid giving a full and candid accounting of his rationale for his actions in the pardon of Marc Rich, the clemency offered to 16 terrorists, and other matters that gave rise to my concerns about his judgment and independence.

Even after having ample opportunity to explain himself, it is still unclear what Mr. Holder's rationale was for recommending a pardon for fugitive billionaire Marc Rich. Mr. Holder has accepted fault, and admitted that he made a mistake. But never in a full day of hearings and several written answers did Mr. Holder offer a compelling reason for supporting this pardon. I am also concerned that Mr. Holder's testimony regarding key conversations and meetings on the Rich pardon seems to conflict with the recollections of members of the Rich legal and lobbying team.

In short, nothing in Mr. Holder's testimony convincingly rebuts the widely held suspicion that Mr. Holder's pardon recommendation was based in a desire to give President Clinton the answer that he wanted. The Rich pardon recommendation is Mr. Holder's most recent major action as a public official. The doubt that it casts on his independence and judgment remains.

Mr. Holder defends himself by claiming that he was naïve. He admits that the Rich pardon was a mistake, and promises that he will not make the same mistake again. But this pledge is difficult to square with the fact that Mr. Holder had made essentially the same error in judgment less than two years before, when he recommended clemency for 16 Puerto Rican terrorists. Many of the same criticisms that were aired in multiple congressional hearings that scrutinized the FALN and Los Macheteros terrorist commutations, including Mr. Holder's failure to solicit and represent the views of federal prosecutors and FBI agents. In light of his experience with the Puerto Rican terrorist clemency recommendation, it is perplexing that Mr. Holder claims to have been naïve or otherwise caught off-guard when the Marc Rich pardon crossed his desk less than two years later.

I have been especially disappointed in Mr. Holder's failure to fully explain the process by which he decided that it was appropriate to grant clemency to terrorists who had never disavowed their declared war on the United States. Mr. Holder claims that these men were not "linked to violence." This is false. These men were active members of a terrorist group that had committed dozens of violent crimes, including bombings, murders, and arsons. It is true that the crimes that these terrorists were captured and prosecuted for were not violent crimes. But by that standard, Al Capone was not "linked to violence." There is ample evidence that at least some of the men for whom Eric Holder recommended clemency were murderers.

Mr. Holder owes this Committee a more complete explanation of the process of reasoning that led him to believe that commutation for these terrorists was "reasonable." More importantly, he owes this Committee a full explanation of how he came to the decision to steer the Department of Justice to recommend clemency for these Puerto Rican terrorists. Instead of a full explanation, Mr. Holder has refused to testify in any detail about the contents of his communications with the White House or anyone else. And the Obama Justice Department has seemingly slammed the door on this Committee's legitimate inquiry by refusing the reasonable request for key documents made by the Chairman and Ranking Member. These documents are all the more relevant given Mr. Holder's unwillingness to answer basic questions about his clemency recommendation.

For instance, when I asked Mr. Holder whether he had mentioned in his recommendation that Juan Enrique Segarra-Palmer had been linked to the murder of U.S. Navy sailors in Puerto Rico, Mr. Holder replied only that "It would not be uncommon for Mr. Segarra-Palmer's presentence reports to be included in consideration of clemency." This does not answer the question, which should be a matter within Mr. Holder's personal knowledge. When I asked Mr. Holder for the names of people that he met with regarding the commutations, Mr. Holder declined to provide any names, on the grounds that he does not "recall each one." Inability to provide a comprehensive answer is not an excuse for providing no answer at all. Indeed, Mr. Holder's failure to explain his actions and his process to the best of his ability does nothing to alleviate my concerns about his independence and his judgment.

My gravest concern, however, is that Mr. Holder fails to fully understand the unique challenges and threats posed to our country by radical Islamic terrorism. I fear that Mr. Holder is not prepared to lead the Justice Department at a moment when this nation is waging an asymmetric war whose battlefield extends across the globe and onto U.S. soil. If confirmed as the next

Attorney General, Mr. Holder will inherit a complex legal architecture constructed to prevent terror attacks against America and its allies that has been controversial, but effective. I was pleased that Mr. Holder testified that protecting America from attack is his most important job as Attorney General. But his public statements regarding the War on Terror too often betray a willingness to advance ideological rhetoric without fully appreciating the sensitivity and complexity of a particular issue. If Mr. Holder is confirmed, I hope that he will study these issues carefully and independently, and will use power responsibly--and not simply cater to the extreme voices on the left.