

## Dems Put Hold on Nomination As Gonzales Stonewalls

by Edward Spannaus

In the face of continued, flagrant stonewalling by Attorney General-nominee Alberto Gonzales, Democrats on the Senate Judiciary Committee put a “hold” on his nomination on Jan. 19, forcing at least a one-week delay in the committee vote. The White House had hoped to have both Gonzales and Secretary of State-nominee Condoleezza Rice confirmed by the full Senate on the afternoon of Jan. 20, immediately following the swearing-in of President Bush and Vice President Cheney. The White House was reported to be furious that its two most important Cabinet nominations were stalled.

Although a Democratic “hold” was already being discussed in the Judiciary Committee, White House Counsel Gonzales stoked the uncertainty over his confirmation vote, when he submitted over 200 pages of responses—better described as non-responses—on the afternoon of Jan. 18, to questions posed by members of the Senate Judiciary Committee. The ranking Democrat on the committee, Sen. Patrick Leahy (Vt.), accused Gonzales of falling into “the same pattern of stonewalling and non-cooperation that we have seen far too often from this Administration and from the current Attorney General,” referring to John Ashcroft.

Sen. Edward Kennedy (D-Mass.), who requested the “hold,” said that Gonzales had failed to answer critical questions—such as who had asked for the preparation of the infamous August 2002 “torture memo”—and that he had failed to search his files for information. “These are very important questions and issues on torture. I do not think our committee would be satisfied with the answers given,” Kennedy said. “These are very arrogant answers.”

One source involved in the fight around Gonzales, suggested that the reason Gonzales stated that he did not search for documents, is so that if damaging documents turn up later, he can protect himself against accusations of hiding them.

Committee Chairman Arlen Specter (R-Pa.) reportedly

said that he would consider asking Gonzales to supplement his answers. Specter also said that he hopes to avoid a party-line vote—an astounding statement, in that, up until now, it has been assumed that almost all Senate Democrats would reluctantly vote for Gonzales’s confirmation. Now, a number of Democratic Senators are declaring themselves undecided as to how they will vote.

### No Recollection, No Search

The pattern of “I do not recall” and similar responses that Gonzales displayed in his Jan. 6 confirmation hearing, was carried forward in his written responses. A count done by the *Washington Post* showed that Gonzales stated “I do not recall” or “I have no recollection” six times; and “I have no present knowledge” seven times. He declared “I am not at liberty to disclose. . .” or “to discuss” certain matters, at least 17 times. And, showing that he had no interest in trying to find out the answers, he responded on seven occasions that he did not “conduct a search” for relevant documents or information.

In his responses in which he did answer something of substance, Gonzales said that CIA officers and other non-military personnel fall outside a 2002 directive issued by President Bush pledging humane treatment of prisoners in U.S. custody. He acknowledged, seemingly for the first time, that military personnel are bound by the Uniform Code of Military Justice and other statutes—a point that had been made strongly by a number of Senators and witnesses at his Jan. 6 hearing.

Gonzales also maintained that a Congressional ban on cruel, unusual, and inhumane treatment of prisoners has a “limited reach” and does not apply in all cases to “aliens overseas.” This is directly contradictory to what the Senate said when it ratified the Convention Against Torture only a

decade ago.

But, after carving out these gigantic, and improper, exemptions, Gonzales then said that the President has a clear policy opposing torture, by which the CIA and other agencies are bound.

Gonzales also reiterated his (and Cheney-lawyer David Addington's) view, that the President, using his commander-in-chief authority (i.e., the *Führerprinzip*—see interview with Scott Horton, below), could decide that a U.S. law prohibiting torture is unconstitutional—but he added that all this is irrelevant, since President Bush would never approve torture!

What should happen, before the committee, and then the full Senate, votes, is that Gonzales should be recalled and questioned, in depth, about these discrepancies, and also about the new disclosures coming out from investigative reporter Seymour Hersh and others, about the Administration's use of "hunter-killer" teams and El Salvador-style death squads to capture or kill suspected terrorists, without the slightest semblance of adherence to legal requirements under U.S. law and international treaties. (See article, p. 4.)

According to Hersh's account in *The New Yorker*, a major purpose of the shuffling of commando operations from the CIA to the Pentagon, is to avoid the reporting obligations and Congressional oversight to which the CIA is subject. Hersh also says that much of the consolidation of clandestine operations being carried out by Defense Secretary Donald Rumsfeld, is pursuant to Presidential directives. What does Gonzales know about this? It is difficult to imagine a Presidential directive being issued, that did not go across his desk.

## Torture Is Continuing

While Gonzales was insisting there is no need for a prohibition on torture, two attorneys who have just returned from Guantánamo Bay, described the horrendous conditions under which prisoners at Guantánamo are held. Speaking at a press conference on Jan. 19 sponsored by the Kuwaiti Family Committee and the National Press Club, attorneys Thomas Wilner and Kristine Huskey, who were finally able to visit their clients—12 Kuwaiti citizens—after having represented them for almost three years, said that all of their clients have been physically abused.

No matter how you define torture, "the treatment of these men has crossed the line," Wilner said. "These men have been tortured, make no mistake about it."

Wilner said that there are two types of abuse: physical abuse, "which we call torture"; and psychological abuse. Wilner said, "I believe there is still some physical abuse occurring. I think it is probably more intermittent and less systemic than before. I have no doubt that initially, it was systemic and a matter of policy. I think there is still some going on." Describing the conditions under which detainees live, Wilner said that he had visited convicted murderers in U.S. prisons, "and they live in palaces compared to this." And of course, the Guantánamo detainees have not been convicted

of anything.

Huskey, another attorney from Wilner's firm (the D.C. office of the Wall Street law firm of Shearman & Sterling), said that all the detainees are "startlingly thin," and have complained of poor medical care, but their biggest complaint is the "disgracing of Islam" by interrogators and military personnel, including the throwing of a Koran into a toilet. They all said that torture is occurring, Huskey said.

Wilner was a lead attorney in the case decided by the Supreme Court in June, which held that Guantánamo detainees must have access to the courts. Yet it took these attorneys six months to be able to see their clients, and even now, their notes of their discussions with their clients are classified.

That torture continued at Guantánamo, is also stated in a new Red Cross report cited in the Jan. 24 issue of *Newsweek*. The report shows that prisoner abuse was still going on at Guantánamo last Fall, even after exposure of Abu Ghraib and the opening of a number of official investigations by the Pentagon. The confidential report, given to U.S. officials last month, reportedly reaffirms the Red Cross's previous finding, that the abuses were "tantamount to torture."

## Nuremberg Standards

*EIR* raised a question at the press conference about the principle applied by American prosecutors at the Nuremberg Tribunals, that those who formulated the policy and wrote the policy memos were just as responsible as those who carried out the policy on the front lines. (See Horton interview.) Yet, in this country today, we seem to promote them, as in the case of Alberto Gonzales, or keep them in place, such as in the case of Donald Rumsfeld.

Attorney Wilner hastened to add that "our new Secretary of State," Condoleezza Rice, should also be asked about these matters.

Douglass Cassel, who teaches international law at Northwestern University, responded that there are two ways in which superiors can be held responsible for war crimes committed by low-ranking soldiers: 1) if they authorized or ordered such conduct; and 2) if the superiors had information brought to their attention, from which they knew or should have known, that these kinds of things were happening. Cassel noted that much of the information about the treatment of prisoners at Guantánamo, which has come out more recently in the press, FBI memos, Red Cross reports, etc., "was available to people inside the government long before those of us outside the government knew about it."

Under the UN Convention Against Torture, U.S. officials are obligated to conduct a full investigation of any such reports, but "a full investigation has not been done," Cassel stated. "There have been many, many investigations of low-ranking soldiers. But what about the CIA? What about the White House? The Justice Department? The State Department? The National Security Council? Who knew what, when? And did they meet the standards that have been in place since Nuremberg?"