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June 9, 2009

Board of Directors  
District Grievance Committee  
State Bar of Texas  
1414 Colorado St.  
Austin, TX 78701

Re: Complaint against Alberto R. Gonzales

Dear Sir or Madam:

On May 18, 2009, we filed a bar complaint against Alberto Gonzales because of his violation of the rules of ethics by his advocacy of torture, which is defined under both US and international law as a violation of law, a felony and a war crime. After we filed that complaint, several new pieces of supporting information have been disclosed in the public domain that your committee should consider.

1. On May 29, 2009, in an interview with Fox News, General David Petraeus, discussing torture of detainees, said, "When we have taken steps that have violated the Geneva Conventions, we rightly have been criticized, so as we move forward I think it's important to again live our values, to live the agreements that we have made in the international justice arena and to practice those."  
<http://www.harpers.org/archive/2009/06/hbc-90005079> (Article and Video)
2. On May 31, 2009, General Ricardo Sanchez, in an interview with MSNBC, stated that the use of torture on detainees, constituted a "war crime," and that a "truth commission" is necessary to address the "institutional failure" of those charged with decision making and accountability. [http://www.huffingtonpost.com/jack-hidary/general-rick-sanchez-call\\_b\\_209573.html](http://www.huffingtonpost.com/jack-hidary/general-rick-sanchez-call_b_209573.html) (Article and Video)
3. On June 8, 2009, emails relating to the OLC torture memos were released and reported on. We have attached three relevant emails as Exhibit A. In those, discussed in detail here <http://www.truthout.org/060809J>, there are numerous references to Alberto Gonzales being "weak" and succumbing to politicized pressure from the White House to approve the torture memos in order to provide cover for the use of torture. In fact, Deputy Attorney General James Comey told AG Gonzales that the torture opinion "would come back to haunt [him] and DOJ and urged him not to allow it."
4. On May 20, 2009, in a report on National Public Radio, a highly placed source familiar with the torturing of Abu Zubaydah stated that White House Counsel

Alberto Gonzales personally approved the daily torture of Zubaydah prior to the issuance of the DOJ torture memos dated August 2, 2002.

<http://www.npr.org/templates/story/story.php?storyId=104350361> The details are as follows:

Abu Zubaydah was captured on March 28, 2002. Initially, FBI Agent and translator Ali Soufan applied the traditional "Informed Interrogation Approach" which, according to his Senate Judiciary Committee testimony [1] on May 13, 2009 [2], was successful. Agent Soufan was reportedly able to source names of Al-Qaeda operatives and learned that Khalid Shiekh Mohammed was the 'mastermind' of the 9/11 attacks. Soufan testified:

"[t]he case of the terrorist Abu Zubaydah" [is] "a good example of where the success of the Informed Interrogation Approach can be contrasted with the failure of the harsh technique approach."

"many of the claims made in the memos about the success of the enhanced techniques are inaccurate."

"For example, it is untrue to claim Abu Zubaydah wasn't cooperating before August 1, 2002. The truth is that we got actionable intelligence from him in the first hour of interrogating him."

Soufan further testified that CIA contractors took over the interrogation process in Thailand and began to apply harsher and harsher methods, eventually waterboarding him scores of times. For each time the CIA contractors chose to ratchet up the interrogation, they sought and secured authorization.

Although Soufan does not reveal who provided the authorization to torture Zubaydah, a report by NPR on May 20, 2009 describes the authorization process and names White House Counsel Alberto Gonzales as the person who gave that approval. Thus NPR's source confirmed a key aspect of Ali Soufan's sworn testimony. [3]

Further, the CIA has corroborated the source's claim relative to the frequency of requests. A spreadsheet released by the CIA to the ACLU on May 19th shows that during the spring and summer of 2002, there were many top secret cables sent between the CIA's black site and CIA headquarters.

This approval occurred before the formal written authorization was granted in the form of the August 1, 2002 memo drafted by John Yoo.

5. In addition to the above new information, we also bring to your attention the resolution adopted by the American Bar Association condemning "any use of

torture ... *and any endorsement or authorization of such measures by government lawyers, officials and agents;*” Attached as Exhibit B

The actions of Alberto Gonzalez as White House Counsel and Attorney General were essential to the use of torture on detainees. Mr. Gonzales pushed aside all dissenting voices in the military, intelligence and justice agencies. Without his approval of the torture program, the program would not have been formalized as United States policy. His involvement provided assurance and cover to those in these agencies that feared prosecution and accountability for their participation in torture.

[1] <http://www.youtube.com/watch?v=ap0spQ2dkNw>

[2] “What Went Wrong: Torture and the Office of Legal Counsel in the Bush Administration” -- Senate Judiciary Committee, Subcommittee on Administrative Oversight and the Courts; DATE: May 13, 2009; TIME: 10:00 AM; ROOM: Dirksen-226

<http://judiciary.senate.gov/hearings/hearing.cfm?id=3842>

<http://judiciary.senate.gov/webcast/judiciary05132009-1000.ram>

[3] Ari Shapiro, “Did White House OK Earliest Detainee Abuse?,” All Things Considered, May 20, 2009.

<http://www.npr.org/templates/story/story.php?storyId=104350361>

Sincerely,



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