

PATRICK J. LEAHY, VERMONT, CHAIRMAN

EDWARD M. KENNEDY, MASSACHUSETTS
JOSEPH R. BIDEN, Jr., DELAWARE
HERB KOHL, WISCONSIN
DIANNE FEINSTEIN, CALIFORNIA
RUSSELL D. FEINGOLD, WISCONSIN
CHARLES E. SCHUMER, NEW YORK
RICHARD J. DURBIN, ILLINOIS
BENJAMIN L. CARDIN, MARYLAND
SHELDON WHITEHOUSE, RHODE ISLAND

ARLEN SPECTER, PENNSYLVANIA
ORRIN G. HATCH, UTAH
CHARLES E. GRASSLEY, IOWA
JON KYL, ARIZONA
JEFF SESSIONS, ALABAMA
LINDSEY O. GRAHAM, SOUTH CAROLINA
JOHN CORNYN, TEXAS
SAM BROWNBACK, KANSAS
TOM COBURN, OKLAHOMA

United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

BRUCE A. COHEN, *Chief Counsel and Staff Director*
MICHAEL O'NEILL, *Republican Chief Counsel and Staff Director*

August 16, 2007

Honorable Glenn A. Fine
Inspector General
The Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530-0001

Dear Inspector General Fine:

I am writing to ask that you investigate and evaluate potential misleading, evasive, or dishonest testimony by Attorney General Alberto Gonzales before the Senate Judiciary Committee on July 24, 2007, and in previous hearings before this and other congressional Committees. I have identified numerous instances in which the Attorney General appears to have contradicted his own previous testimony or the statements or testimony of other senior officials, or where he appears to have engaged in efforts to mislead. I have given him an opportunity to clarify and revise his testimony, but he has not meaningfully addressed our significant concerns.

I ask that you review the Attorney General's testimony and compare it with other testimony and evidence to determine whether his testimony was in any instances intentionally false, misleading, or inappropriate. Consistent with your jurisdiction, please do not limit your inquiry to whether or not the Attorney General has committed any criminal violations. Rather, I ask that you look into whether the Attorney General, in the course of his testimony, engaged in any misconduct, engaged in conduct inappropriate for a cabinet officer and the nation's chief law enforcement officer, or violated any duty – including the duty set out in federal regulations for government officials to avoid any conduct which gives the appearance of a violation of law or of ethical standard, regardless of whether there is an actual violation of law.

Potential misleading statements that you may wish to examine include, but are not limited to the following instances:

1. Attorney General Gonzales testified on July 24, 2007, that the "Gang of Eight," consisting of members of Congress, told him that "despite the recommendation of the Deputy Attorney General," who as Acting Attorney General had found a warrantless surveillance program to be without legal basis, the government should "go forward with these very important intelligence activities."

According to press accounts, at least three members of Congress who were present for the described meeting dispute the testimony that they recommended proceeding with the program over the Acting Attorney General's objections.

2. Attorney General Gonzales testified before the Senate Judiciary Committee on February 6, 2006, that neither former Deputy Attorney General James Comey nor other officials had concerns about the Terrorist Surveillance Program (TSP) that was confirmed by the President. In a June 5, 2007, press conference, Attorney General Gonzales stated that a dispute with Mr. Comey concerned this very program, though he later retracted that statement. At his July 24 hearing, Attorney General Gonzales said that there was no dissent about the TSP, and that the disagreement concerned "other intelligence activities." Numerous officials, including members of the "Gang of Eight" and FBI Director Robert Mueller have indicated that the disputes did concern the TSP, and that there was only one program. Attorney General Gonzales in an August 1, 2007, letter to me set out a legalistic explanation stating that the disputed activities and the TSP were separate components of a single program.
3. Attorney General Gonzales said in April 27, 2005, testimony before the Senate Select Committee on Intelligence with regard to National Security Letters (NSLs) and other information-gathering techniques that statutory civil liberties safeguards had been effective and that "[t]here has not been one verified case of civil liberties abuse." Similarly, his responses to written questions following his April 19, 2007, Senate Judiciary Committee hearing indicated that he had not learned of problems with NSLs prior to your March 2007 report on the issue. Documents obtained in a Freedom of Information Act lawsuit indicated that the Attorney General had in fact received numerous reports in 2005 and 2006 of violations in connection with NSLs and other surveillance tools. The Attorney General in his July 24 testimony suggested that his prior testimony and answers were premised on the fact that he was not aware of any "intentional" violations. *The Washington Post* has reported that at least one intentional violation was reported in the relevant time period.

The Honorable Glenn A. Fine

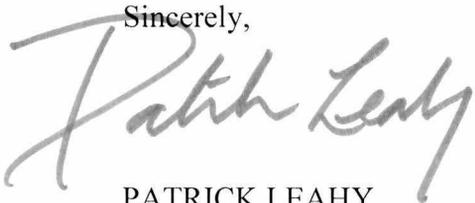
August 16, 2007

Page 3 of 3

4. In March press appearances, Attorney General Gonzales said that he had not been involved in deliberations as to which United States Attorneys should be fired. Documents and testimony obtained by the Senate Judiciary Committee showed that the Attorney General attended a November 27, 2006, meeting at which the firings were approved. In subsequent testimony, Attorney General Gonzales has taken responsibility for the firings and said that he attended this meeting, but he has maintained that he does not know who was responsible for selecting the names of U.S. Attorneys to be fired and does not remember what was said at the November 27 meeting. He has at times placed primary responsibility for which U.S. Attorneys were selected to be fired on his former Chief of Staff Kyle Sampson and former Deputy Attorney General Paul McNulty, each of whom denies making the determinations.
5. In his April 19, 2007, testimony, Attorney General Gonzales said, "I haven't talked to witnesses because of the fact that I haven't wanted to interfere with this investigation." In May 23, 2007, testimony to the House Judiciary Committee, former White House liaison Monica Goodling testified that the Attorney General had a discussion with her that made her "uncomfortable" in which he set out his version of events regarding the process of firing U.S. Attorneys and asked for her reaction. In his July 24 testimony, Attorney General Gonzales said he had a conversation with Goodling "to console and reassure an emotionally distraught woman" and to "reassure her that as far as I knew, no one had done anything intentionally wrong here."

These and other examples suggest a possible pattern of misleading answers and an effort to avoid disclosing the full truth. I look forward to your review and report as to the propriety of the Attorney General's testimony. Thank you for your prompt attention to this matter.

Sincerely,

A handwritten signature in cursive script that reads "Patrick Leahy". The signature is written in dark ink and is positioned to the left of the typed name.

PATRICK LEAHY
Chairman