

## **Statement On Behalf of Judge Alberto Gonzales**

**Re**

### **Report by Inspector Generals Concerning Certain Classified Intelligence Programs**

*Washington, DC, July 9, 2009:* Former Attorney General Alberto Gonzales said today that the unauthorized disclosures detailed in the Report issued today concerning certain classified intelligence programs were regrettable and may have resulted in America being more vulnerable to terrorist attacks than it would otherwise be had the secrecy of these vital intelligence activities been maintained. In addition, Judge Gonzales believes that the country remains at risk of attack today and trusts that release - through today's joint Inspectors General Report - of detailed classified information about counter-terror programs to a wider audience in Congress and elsewhere will not result in further disclosures that could compromise the safety of Americans. Judge Gonzales said, "We can not take the safety of Americans as a given; the fight to prevent terror attacks continues daily and our intelligence professionals need to preserve the confidentiality of the tools they use to get the job done."

Judge Gonzales' counsel, George J. Terwilliger, said that he and Judge Gonzales had been provided with ample opportunity to review the classified report in its entirety and had offered constructive criticism of it on matters both directly effecting Judge Gonzales and on other aspects concerning the legal issues presented by the Bush Administration's aggressive use of available intelligence tools to prevent another attack after September 11, 2001. Terwilliger said, "At the end of that process, we still had disagreements with various aspects of the draft Report, but we also concluded that the issues we believed most important had been addressed and in many cases corrected or amended."

Terwilliger said that one set of concerns that were addressed with the DOJ OIG was about the March 2004 hospital visit to Attorney General John Ashcroft by then White House Counsel Gonzales and Chief of Staff Andrew Card. "We strongly communicated to the DOJ Inspector General that it is beyond his purview to purport to review, analyze and/or criticize the decision by the President to ask, despite the Attorney General's illness, that he meet with senior Presidential staff on a vital matter of national security. We also made clear to the Inspector General's office that it ought to examine the propriety of subordinate DOJ officials attempting to interfere with or limit communications directed by the President about national security matters and effectuated through his senior staff."

Terwilliger said that he and Judge Gonzales had also been given the opportunity to have a robust discussion with the DOJ OIG staff about the dispute concerning legal authorities for certain classified counter terror intelligence programs. “Our point was not to so much to rehash the disputed issues themselves, but rather to emphasize that no one should be surprised that lawyers would have different positions on legal questions arising in the unprecedented circumstances presented to intelligence agencies in the post 911 world,” Terwilliger said. He further said, “As importantly, we emphasized that while there can be reasonable differences of view on the disputed issues, the issue only came to a head when the Justice Department changed a long-standing position and suggested that a vital program approved by the Attorney General since its inception should end. In fact, as the public Report shows, a satisfactory solution was found that allowed the objectives of the program to continue to be realized and subsequently steps were taken by the FISA court and Congress to keep such vital efforts legally viable and programmatically active.”

Terwilliger also said the proposition that Judge Gonzales had in testimony intentionally misled anyone about any aspect of these programs was specious from the start. Terwilliger said, “If there is a lesson to be learned from this, it is that public legislative hearings are no place to play politics with questions concerning vital classified counter-terror programs. The limitations on what a public official can say in a public session are so great that confusion and misunderstanding on the part of questioners and listeners is inevitable. My advice to an Attorney General facing a similar dilemma in the future would be to politely decline the invitation to be political cannon fodder and, instead, offer to provide a full accounting to Congress through established mechanisms that permit testimony in closed sessions.”

**Robert H. Bork, Jr.**  
Bork Communication Group