

A GENERAL REBELLION

ALBERTO GONZALES HAS BIG TROUBLES, BUT IT ISN'T THE CURRENT FLAP THAT HAS MADE HIM SUCH A CONTROVERSIAL FIGURE

By Chitra Ragavan

In the summer of 2004, then White House Counsel Alberto Gonzales met with one of his senior lawyers, Bryan Cunningham, who wanted to move to Colorado with his family. Gonzales remarked that Cunningham was lucky to have the chance to recharge his batteries and escape the poisonous political atmosphere of Washington, which takes such a toll on public servants and their families. "In fact," Gonzales told Cunningham wistfully, "I'd like to go back to Texas right now."

That wish could still come true. Gonzales has since become attorney general, but he's holding on to that job by a thread, struggling to extricate himself from a nasty brouhaha over how and why a handful of U.S. attorneys were dismissed last December. For veteran scandal-watchers in the capital, it's a delicious mix of partisan warfare, misstatements, finger-pointing, and embarrassing E-mails, all fueled by the fact that Democrats took over Congress last fall and are now armed with the power of the subpoena. Democrats who were hunting for big game effectively found some sitting ducks at the Justice Department. Gonzales and his top political aides did not sense the danger in the shifting winds.

But when history renders its verdict on the Gonzales legacy, the U.S. attorney firings will very likely be relegated to a mere footnote. What will fill the history books is Gonzales's deep involvement in the Bush administration's controversial war on terrorism: the decision to conduct warrantless surveillance of terrorism suspects on U.S. soil, the use of the U.S. naval base in Guantánamo Bay, Cuba, to house terrorism suspects, the establishment of military commissions to prosecute them, and the approval of so-called torture memos, allowing the use of aggressive interrogation techniques.

Gonzales's record also will be tarnished by his inspector general's recent revelations that the FBI—an arm of the Justice Department—repeatedly misused a powerful new tool known as national security letters to obtain telephone, E-mail, and financial records of U.S. citizens and foreigners, often under false pretenses. Justice and FBI officials have also acknowledged that the bu-

reau committed numerous errors in surveillance warrants that it filed in terrorism and spy cases before a secret court. "I think Gonzales's legacy will be this history of being willing to play fast and loose with civil liberties," says William Weston, dean of Kaplan University's school of legal studies.

Successful strategy? Supporters argue that Gonzales boldly did what had to be done to protect Americans in a world that had changed forever. "Since September 11, there have been no more attacks on this country," says Bush's former associate counsel Noel Francisco. "Those of us sitting here today have the luxury of believing it is still September 10. The president and the attorney general don't have that luxury."

CHARLIE ARCHAMBAULT FOR USNEWS



HOT SEAT. Gonzales, during earlier testimony on the warrantless surveillance program

After the 9/11 attacks, Bush, with counsel from Gonzales, laid claim to an unprecedented expansion of presidential authority, bypassing the courts, the Geneva Conventions, and even the Republican-led Congress to implement the policies they felt were necessary. Now, on Capitol Hill, it's payback time. Democrats are using their own newfound powers to make Bush and Gonzales squirm over those prosecutor firings, even though hiring and firing U.S. attorneys is a core presidential power. Even Republicans, though, had to concede the dismissals were botched badly. So badly that even Bush was hard pressed to support his attorney general last week after sworn testimony from Gonzales's former chief of staff Kyle Sampson—testimony that roundly contradicted Gonza-

les's version of events. "I'm going to have to let the attorney general speak for himself," Bush spokeswoman Dana Perino said after Sampson's testimony.

By week's end, many justice-watchers predicted that Gonzales and the No. 2 at the department, Paul McNulty, would have to go. "Morale is shattered, and public confidence in the department gets lower every day," said former justice spokesman Mark Corallo. "Somebody has to stop the hemorrhaging."

Gonzales's self-inflicted wound has saddened even critics, who may disagree with his policies and performance but generally praise him as a gentle and decent human being. A humble man who was raised in Humble, Texas, Gonzales was strongly influenced by the sacrifices his immigrant parents made to raise their eight children and by his late father's pull-yourself-up-by-your-bootstraps outlook. Gonzales worked his way through Harvard Law School and became a partner at a prestigious Houston law firm after turning down an offer to join President George H. W. Bush's administration. But in 1995, when the younger Bush, then Texas governor, came calling, Gonzales couldn't refuse and became Bush's general counsel. Despite Gonzales's relative inexperience, Bush quickly named him secretary of state, then Texas Supreme Court judge, and ultimately White House counsel, when Bush became president.

Grateful. Bush has referred to his friend as "*mi abogado*"—my lawyer. Indeed, if Gonzales's life were to be made into a movie, it could well be called *All the President's Men*. "He was someone who was always very grateful to Bush," says Texas attorney Douglas Alexander, "for basically putting him on a fast track." But Gonzales's critics say he has paid a steep price. He had little experience in national security but after 9/11 was smack dab in the middle of the biggest national security crisis in modern American history.

Some praise his performance during those desperate hours. "Judge Gonzales had a level head and a cool hand," says Francisco. But others say Gonzales was intellectually co-opted by a small group of advisers who rendered him a

silent coconspirator in their efforts to craft controversial policies based on their aggressive interpretation of presidential power. Among those advisers: Gonzales's deputies Timothy Flanigan and David Leitch; the Pentagon's general counsel, William Haynes; Justice Department official John Yoo; and David Addington, then special counsel—and now chief of staff—to Vice President Dick Cheney. "[Gonzales] really did become captured by that small group of people," says one administration official. "He allowed himself to be manipulated

three of them eventually pushed through the military commission idea, knowledgeable sources say. Gonzales also put his signature on a draft memorandum written by Flanigan, with Addington's input, that allowed the administration to bypass the Geneva Conventions in the interrogation and treatment of terrorism suspects. Gonzales and Addington also were the only two officials in the White House, these sources say, who proffered legal advice on the NSA's controversial warrantless surveillance program.

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CONTRADICTIONS. Sampson, before the Senate Judiciary Committee

Bush named Gonzales his attorney general in 2004. But Gonzales's lack of experience in running a huge department, his outsider status, his controversial past, and his lack of an independent political base on Capitol Hill have all helped transform the U.S. attorney crisis into a perfect storm.

In one respect, says Gonzales's old colleague Cunningham, the attorney general deserves some sympathy. "I think the career bureaucracy at Justice, State, and CIA are almost unmanageable," says Cunningham. "Any attempts to get them to carry out what the elected political leadership wants is seen as an unwarranted influence of politics."

In this case, that suspicion was exacerbated by the view among many career prosecutors that Gonzales is too close to Bush. A closeness, one former justice official says, that

and didn't include other agencies in the process, such as the State Department, the military, and the National Security Council."

For instance, it's been widely reported that Addington and Flanigan overruled a recommendation by then NSC adviser John Bellinger to conduct a review of the Guantánamo detainees because Bellinger and many military officers had concluded that not all of them were terrorists. Gonzales, sources say, listened to Bellinger's concerns but remained silent. Similarly, Gonzales allowed Flanigan and Addington to limit Bush's options on how the suspects ought to be prosecuted, and instead all

is often reflected in Gonzales's unconscious rhetoric, how he frequently invokes the president first when chatting with justice colleagues, as in "this president, the Department of Justice, and the country expect no less from us," which to many became indicative of where the attorney general's primary loyalties lie.

Given the high price of loyalty in Washington, it's perhaps not surprising that Gonzales has recently been mulling over whether to stay or go.

"I think that every cabinet official has to ask themselves—every day—'Is it still appropriate for me to lead a cabinet department?'" Gonzales mused in a recent interview with NBC News. "It's something that I've been asking myself more lately than perhaps others." But increasingly, others are asking, too. ●

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