



Fitzgerald, fielding questions from members of the 9/11 commission

# ONE MIGHTY-DETERMINED PLUMBER

The lawman investigating a White House leak just won't take no for an answer

By Chitra Ragavan

Long before Osama bin Laden became a household name, a young federal prosecutor named Patrick Fitzgerald in the U.S. attorney's office in the Southern District of New York became steeped in the emerging world of jihad, toiling with little public recognition to prosecute some of the world's most dangerous terrorists, all with ties to the evolving Islamic fundamentalist movement. Men like Ramzi Yousef, who engineered the bombing of the World Trade Center in 1993; Sheik Omar Abdel Rahman, the Egyptian cleric who plotted to destroy New York tunnels, bridges, and other landmarks; the four leaders of the U.S. Embassy bombings in Kenya and Tanzania in 1998; and, that same year, bin Laden himself. "He is a one-man encyclopedia on al Qaeda because he has this absolutely scary photographic memory," says Deputy Attorney General James Comey, who is

Fitzgerald's best friend. "He is a one-man dot connector, which is very valuable."

These days, Fitzgerald, who was named the U.S. attorney in Chicago just days before the 9/11 terrorist attacks, is getting more than his fair share of national headlines—but for an entirely different kind of dot-connecting that has alarmed American media organizations and outraged champions of the First Amendment. The story, by now, is a familiar one: In December 2003, Fitzgerald, 44, was named as a Justice Department special counsel to investigate whether Bush administration officials illegally leaked the name of a covert CIA operative named Valerie Plame to conservative columnist Robert Novak. Plame's husband, former Ambassador Joseph Wilson, has alleged his wife was outed to punish him for challenging the administration's claim, as part of its advocacy for invading Iraq, that Saddam Hussein had tried to obtain uranium ore from Niger. Unable to prove the sources

of the leak, despite having questioned numerous government officials, including President George Bush, Fitzgerald subpoenaed several reporters, including Judith Miller of the *New York Times* and *Time* magazine's Matthew Cooper, to reveal their confidential sources.

**High court showdown.** Miller, who never even wrote about Plame, and Cooper have declined to cooperate, and they and their publications have lost two battles at the federal district and appeals court levels to protect their sources, setting the stage for a landmark showdown in the U.S. Supreme Court. (The court ruled in 1972 that reporters could be required to testify before a grand jury if a prosecutor could prove it was necessary.) The court is expected to announce this week whether it will grant a hearing in the matter. If it allows the lower-court rulings to stand, Miller and Cooper could face up to 18 months in jail.

In a separate leak inquiry, Fitzgerald is also seeking to obtain the telephone

records of Miller and a *Times* colleague, Philip Shenon, to determine who tipped the reporters off about an imminent raid on two Islamic charities that Fitzgerald was investigating, leading the reporters to contact the charities for comment and, Fitzgerald believes, compromise the surprise raid. Fitzgerald has been criticized for his handling of the charity investigations, which fizzled out in a weak plea bargain, a modest jail sentence, and failed cooperation from a key defendant, who the judge in the case concluded was more a victim of guilt by association than a financial backer of al Qaeda.

Fitzgerald declined to comment for this article. But Comey says his friend is “no antipress zealot” and that allusions that have been drawn to the antagonistic police inspector in the classic morality tale *Les Misérables* are unfair. “I’ve seen him portrayed as a kind of Javert, which both makes me laugh and cringe,” Comey says, “because nothing could be further from the truth.”

Fitzgerald, in fact, has built a reputation as one of the most apolitical, skilled, respected, and feared federal prosecutors in the country. “Do I agree with all the evidence in his cases? No,” says criminal de-

murders dating back to 1970. “In one sweep, his office solved more mob murders than had been solved in the history of the mob,” says Chicago Crime Commission President Thomas Kirkpatrick. Fitzgerald also has indicted a slew of city officials and obtained nine guilty pleas from employees who are accused of giving business to trucking companies in exchange for bribes and illegal campaign work. Last month, Fitzgerald charged three city employees with running a heroin ring out of the water department. And he has convicted a close ally of Mayor Richard Daley for bilking the city of millions of dollars for running a sham minority firm—all of which has sent shivers up and down City Hall. “Who knows how far up the ladder Fitzgerald’s office will go?” says Dick Simpson, a former Chicago alderman. “He doesn’t stop.”

**The doorman’s son.** It’s this single-minded focus and innovativeness that have made Fitzgerald—a former rugby player—a formidable adversary in both sports and law. The son of Irish parents—his father worked as a doorman at a building on East 75th, just off Madison Avenue—Fitzgerald attended a Jesuit preparatory high school and was star of the speech and debate team. He worked maintenance jobs and spent summers opening doors in a Manhattan co-op to pay for his tuition at Amherst and Harvard Law School. “He really is the combination of the doorman’s son and the brilliant Harvard lawyer,” says Comey. After three years in private practice, Fitzgerald joined the Southern District and cut his teeth on drug, gang, and organized-crime cases before moving into the netherworld of Islamic terrorism.

How one of the nation’s top terrorism prosecutors got stuck in what many of his colleagues view as an utterly thankless investigation shot through with politics is a quintessential Washington tale. When Attorney General John Ashcroft recused himself from the inquiry to avoid a potential conflict of interest, it fell to Comey—whose confirmation for the deputy post was being held in limbo by a Democratic senator because of the controversy—to resolve the impasse. Comey handed Fitzgerald the hot potato, because “there’s nobody better in the whole country.” The decision, “remarkably, has not ended our friendship,” Comey chuckles, later adding: “When I see him getting beat up and unfairly characterized—and most of the characterizations I’ve seen of him have been unfair—that’s the only time I regret giving him this assignment.”

*With Eric Ferkenhoff in Chicago*

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James Comey, deputy attorney general



**QUARRY.** Miller and Cooper have refused to identify their confidential sources for Fitzgerald.

Fitzgerald critics run the political gamut. Conservative columnist William Safire called him a “runaway Chicago prosecutor,” whose strategies present “this generation’s gravest threat to our ability to ferret out the news.” Miguel Estrada, who represents Cooper and *Time* magazine and once worked with Fitzgerald in New York’s Southern District, says his old colleague is simply wrong on the law. “I don’t want to characterize him as overzealous—nothing much is gained by name-calling,” says Estrada. “He’s a delightful colleague and a very thoughtful lawyer. He’s just trying to do his job, though I wish he hadn’t subpoenaed my clients.”

fense attorney Ronald Safer. “But do I question his motives? Not at all.” Fitzgerald has been praised for his relentless attack on Illinois’s scandal-plagued political machine and a spate of indictments of mobsters, gang members, and crooked businessmen. He indicted former Republican Gov. George Ryan and dozens of other state workers, including Ryan’s former chief of staff, for a pattern of corruption during Ryan’s eight-year tenure as Illinois secretary of state. In April, Fitzgerald arrested a dozen aging organized-crime figures, including Cosa Nostra bosses, “made” members, and two former police officers in connection with 18