

Will White House sacrifice Gonzales to save Rove?

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As the political controversy over Attorney General Alberto Gonzales continues to escalate in advance of his appearance before the Senate Judiciary Committee, there are mounting signs that the Bush administration is preparing to sacrifice Gonzales in order to protect aides even closer to President Bush, including chief White House political operative Karl Rove.

Vice President Dick Cheney made only a perfunctory defense of Gonzales during an appearance Sunday on the CBS program *Face the Nation*. While declaring that he and Bush still had confidence in the attorney general, despite widespread criticism of the politically-motivated firing of eight US attorneys, Cheney sought to distance the White House from the issue.

“This took place inside the Justice Department,” he said. “The one who needs to answer to that and lay out on the record the specifics of what transpired is the attorney general, and he’ll do so.”

The senior Republican on the Senate Judiciary Committee, Arlen Specter of Pennsylvania, joined with Democrats in suggesting that Gonzales had only an outside chance of retaining his post. Senate Republicans who are closer to the White House, such as Jon Kyl of Arizona, were also noncommittal on the prospect for Gonzales surviving.

A group of conservative lawyers and former Bush and Reagan administration office-holders urged Gonzales to step down, in a statement released Monday. The statement went well beyond the criticisms voiced in the Senate, attacking a range of anti-democratic policies with which Gonzales is identified, declaring that he “has presided over an unprecedented crippling of the Constitution’s time-honored checks and balances.”

The prepared testimony that Gonzales was deliver to the Senate committee Tuesday morning—an appearance subsequently postponed because of the massacre at Virginia Tech—was released by the Bush administration Sunday. This unusual action, supposedly in response to a request from the Senate panel, gave critics and opponents ample time to prepare questions and highlight contradictions and

falsifications.

The statement by Gonzales is 25 pages long, but only the first five addressed the subject of the firings of eight US attorneys, with the balance devoted to a recitation of the Department of Justice’s supposed accomplishments over the past year, part of a routine budget presentation.

Gonzales did not seriously address the charges that he organized a politically motivated purge of the prosecutors who brought corruption cases against prominent Republicans or who showed unwillingness to bring cases of vote fraud or political corruption against Democrats or Democratic-affiliated interest groups.

After his previous denials of any involvement were flatly contradicted in the sworn testimony of former aides, Gonzales was compelled to agree to appear before the Judiciary Committee to address the issue in more detail. But his statement only begrudgingly concedes that his previous comments on the subject were “imprecise,” an adjective that would not usually be applied to barefaced lies.

The prepared statement contained still more conflicts with the facts, as Gonzales claimed that the process of replacing US attorneys began “soon after I became attorney general,” even though there is an e-mail record of discussions having begun several weeks before he took office.

Gonzales claims that he had only brief discussions on the subject with his chief of staff, Kyle Sampson, and that these conversations were about the review process Sampson was conducting, not the names of prosecutors targeted for dismissal. Sampson, who resigned last month, has already testified to discussions with the attorney general about “asking certain US attorneys to resign.”

Another former Justice Department official involved in the firings, Michael A. Battle, former director of the Executive Office for US Attorneys, told congressional investigators that several of those fired had no performance problems and that a detailed memo on the firings was passed out at a November 27 meeting attended by Gonzales—contradicting Gonzales’s statement that he never saw any documents about the firings and that all of the dismissals were because

of performance issues.

Last Friday, the Justice Department turned over another batch of documents which further undermined the position of the attorney general. One February 12, 2007 email message has an attached, undated spreadsheet which lists all federal prosecutors in the Bush administration together with their work experience, including a category for Republican Party and Bush campaign work, and another for membership in the Federal Society, the right-wing legal fraternity that supplies much of the judicial and law enforcement personnel for the administration. This list clearly demonstrates that the political loyalty of the US attorneys was the principal concern of Bush aides.

Gonzales's prepared testimony continues the pattern of stonewalling that has characterized the Bush administration in every political scandal of the past six years. The attorney general simply denied any political motivation for the firings, without addressing the record of contacts with his office by Rove, Bush's chief political operative, and House and Senate Republicans, who demanded the removal of the prosecutors for overtly political reasons.

Rove's role in the affair sparked additional controversy Friday after the Bush administration claimed that a large number of e-mails from White House political aides, including Rove, had been deleted and could not be produced in response to congressional subpoenas. The e-mails in question had been written by White House aides between 2001 and 2004 using accounts at the Republican National Committee and the Bush 2004 reelection campaign.

A total of 50 White House staffers, including Rove, used the RNC email system to evade legal requirements for document retention and avoid having to turn over materials for congressional or other investigations. According to press accounts, the RNC's "document retention" policy was to erase all emails after 30 days, including erasing the backup record on servers, something which would only be done for the purpose of destroying evidence.

This policy was only altered in 2004, after special prosecutor Patrick Fitzgerald, investigating Rove's role in the exposure of CIA covert agent Valerie Plame Wilson, sought records of both White House and RNC correspondence. The RNC then began to permit, but not require, the indefinite retention of emails sent and received by Bush administration officials using party accounts.

However, according to press accounts over the weekend, Rove continued to personally erase his own RNC emails, and in 2005 the RNC issued a special addendum to its email policy, applying to Rove alone, preventing him from making further erasures. This policy change was described in an interview by RNC attorney Rob Kelner with the House Oversight and Government Reform Committee.

The revelation of the systematic destruction of politically damaging and potentially incriminating emails led some congressional Democrats to hearken back to the Watergate scandal. Senator Patrick Leahy, chairman of the Judiciary Committee, compared the erasures to the infamous 18½-minute gap in a Nixon White House audiotape. He denounced White House claims that the emails had been irretrievably lost, declaring that "any teenager" could recover the erased emails with a little effort.

Security experts generally agreed with Leahy's assessment, pointing out that to erase all copies of a particular email would require a systematic and extensive poring through multiple servers that would itself leave traces that could be detected.

The White House reliance on RNC email accounts for conducting sensitive political business—including much of the discussion of the US attorney purge—could backfire legally. While a plausible legal case can be made for withholding internal White House emails, under the doctrine of "executive privilege," no such claim can be made for emails in the custody of a private organization like the RNC.

Representative Henry A. Waxman, the Democratic chairman of the Oversight Committee, sent a letter to the White House asking for an inventory of all communications by White House staffers using non-government accounts, suggesting that the administration was not complying with the 1978 Presidential Records Act, which requires a permanent record of all communications and policy decisions.

Meanwhile the Citizens for Responsibility and Ethics (CREW) in Washington, a watchdog group that brought the Mark Foley case to light last summer, reported that as many as five million government emails may have gone missing because the Bush administration failed to put into place the necessary archiving system. The failure was first made public during the trial of former Cheney chief of staff I. Lewis Libby, but CREW made the first estimate of the scale of the data destruction.

White House press spokeswoman Dana Perino said Friday that she could not rule out that as many as five million emails have been deleted without possible recovery. On Sunday, White House counsel Fred Fielding called Leahy and Specter and agreed that the Senate committee would be consulted on the selection of an outside email consultant to help recover the deleted emails.



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