

ALBERTO GONZALES TELLS THE TALE WE'VE BEEN WAITING FOR

Alberto Gonzales did a long interview with NPR's Michel Martin on his tenure as Bush's Fredo. As part of it, he gave a long discussion of his actions on March 10, 2004 and thereafter, starting with his insistence that he was not trying to take advantage of Ashcroft when he was in ICU (my transcript—apologies in advance for any errors).

AGAG: Neither and or I, and obviously, I can't really speak for Andy, but I'm comfortable saying that neither Andy or I would have gone there to take advantage of someone who was sick. Um, Andy and I both, in fact, talked about the importance of satisfying ourselves as we talked with General Ashcroft that he was in fact competent. We talked about it over at the White House and talked about it in the sedan over to the hospital. We were concerned about that. We were sent there on behalf of the President of the United States. We had just left a very important meeting with the Congressional leadership about a very important intelligence program that the Congressional leadership agreed with the President should continue because it was a particularly heightened period of threats against the United States and against our allies. And I might remind your listeners that the very next morning, you had the Madrid train bombings. It was a very serious period of time, we had a very important program, **and everyone—the Congressional branch leadership and the Executive branch leadership** seemed to feel that this was something that should continue.

MM: Are you saying the President told

you to go?

AGAG: What I'm saying is I was sent there on behalf of the President of the United States. The Chief of Staff, the Counsel to the President, we went to the hospital on behalf of the President to make sure that General Ashcroft had this information. That's why we went to the hospital.

MM: You mean had information about the Madrid bombing or had information that this was of importance to the President and the Congressional leadership?

AGAG: The Madrid bombing had not happened yet. That would happen then the next morning. **We went to the hospital to make sure that the Attorney General had information about the approval of the Congressional leadership. We felt that as a former Member of Congress that that would make a difference for him and as someone who had been involved in the reauthorization of the program for three years we felt that that would make a difference.** And I would just say that if I were the Attorney General at the time, and the **President was about to make a decision, over the objection of my Deputy**, a decision that was consistent with the advice that I had given him for three years, a decision that was consistent with the approval of the Congressional leadership, I'd like to know about it.

MM: How did you feel though when you found out that Attorney General Ashcroft, Deputy Attorney General James Comey, FBI Director Mueller, all their aides were preparing to resign en masse over this? Did you know that at the time that they felt so strongly about this?

AGAG: What I'll just say as a general matter is that sometimes people feel

strongly about positions, and about decisions that are made within the Executive branch, sometimes people say things in the heat of the moment. At the end of the day what's important is that we all came together and all came to a resolution that ensured the continued safety of our country.

MM: But I still want—you worked closely with these people. You worked closely with John Ashcroft, you worked closely with FBI Director Mueller obviously within the appropriate boundaries of your respective jobs. Did that not give you pause at all, when they all said, well, we'll quit, we'll all leave?

AGAG: Well, I don't know who ... Again, I can't confirm that these people all were saying we're all going to leave. Again, lawyers disagree. They often disagree about very controversial issues. They often disagree about tough legal analysis and legal questions. That's what lawyers do. And I think we need to invite that kind of debate and that kind of discourse between lawyers on very very tough issues. But the fact that someone may have been unhappy, may have disagreed with a particular decision, legal analysis, that should not surprise anyone.

MM: How'd you react when this came out later, when that whole information came out sometime later in about 2006, about 2 years later? what was your reaction? You were out of time at the time that James Comey testified. Do you remember how you felt?

AGAG: I was disappointed that **Mr. Comey had not had the courtesy to at least inform the Department of Justice or the White House** that this testimony was coming.

As background, remember what we learned from a DOJ IG report on Gonzales last year. After Comey told Bush that a number of people in DOJ would resign because Bush had reauthorized the program over DOJ objections, Bush instructed Gonzales to make notes of the Congressional meeting. Those notes appear to have been designed to create a cover story for the hospital visit and to do what the Gang of Eight couldn't easily do, create a "record" of members of Congress approving the illegal wiretapping program.

With that said, here are some initial thoughts on this.

First, note Gonzales' description of who approved of the program. He uses the term "Congressional leadership" throughout, and the one point where he says "everone," he seems to correct himself immediately to say "Congressional leadership."

everyone—the Congressional branch
leadership and the Executive branch
leadership

That's notable for a few reasons. Gonzales is already in trouble for having asserted, under oath, that consensus had been reached at that meeting, a description that several participants at the meeting have disagreed with. (Nancy Pelosi, who has made the most public statement about this, has said a majority agreed, but she did not.) This formulation, "Congressional leadership" is pretty ambiguous. It could easily exclude the intelligence committee leadership. And depending on the duplicity of this very duplicitous figure, it might mean a subset of Congressional leadership (as in, just that is the majority?) Which is all the more interesting given that Tom DeLay was not at the March 10 briefing, but did receive a briefing on March 11, and that Dick Cheney (who is even more duplicitous than Gonzales) has claimed he briefed the Gang of Eight plus DeLay on March 10. I suspect that Gonzales settled carefully on "Congressional leadership," having determined

with his attorney George Terwilliger that that's a way to parse the truth such that he might get out of perjury charges but still claim Congress supported the program.

That said, I think the legally most interesting statement Gonzales made is this one:

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According to Gonzales, when he and Andy Card went to rough up Ashcroft, the President had already decided to override the objections of Comey. That's not in the least bit surprising, of course. I suspect the final outcome was never in doubt. But it's an admission that they were just making one last attempt to get cover for something they were going to do with or without legal sanction from DOJ.

Now look at how they intended to get that cover from Ashcroft.

We went to the hospital to make sure that the Attorney General had information about the approval of the Congressional leadership. We felt that as a former Member of Congress that that would make a difference for him and as someone who had been involved in the reauthorization of the program for three years we felt that that would make a difference.

I'm interested in this for two reasons. First, as I've shown, one problem with the program was undoubtedly that Jello Jay Rockefeller had communicated to Cheney that the program—which appeared to be TIA—violated the legal prohibition on funding TIA. That meant that the program was in direct violation of an amendment written solely to prevent it. If that was one of the biggest objections Comey had with the program, and if Gonzales was willing to claim that the Gang of Eight had told the

Administration to ignore that law, then it might make a difference with Ashcroft.

But I'm also fascinated by Gonzales' emphasis on Ashcroft's approval of this program for three years. It sure sounds like he intended to tell Ashcroft, "We've told Congress we were breaking the law on your legal advice for the last three years. Now sign up or we'll tell more people." As if they tried to use Comey's objection as a way to expose Ashcroft (which might explain why Ashcroft's Chief of Staff was so insistent Comey wait around for Ashcroft to resign).

Finally, Gonzales confirms something here I've long maintained. Chuck Schumer and Jim Comey pulled a fast one on the White House and DOJ to get his testimony on the hospital scene. I pointed out just after Comey's testimony that Schumer made a point of saying that Comey had not been subpoenaed to testify. I suggested that that would have been a way to avoid giving the White House and DOJ a chance to object to Comey's testimony. And, sure enough, at least according to Gonzales, they had no fucking clue.

Mr. Comey had not had the courtesy to at least inform the Department of Justice or the White House that this testimony was coming.

Chuck? You still owe us—big time—for Mukasey. But for springing the hospital scene testimony on BushCo? You done good.

Update: here's a transcript of the full interview. (h/t scribe)