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More Power For Bush

*Alberto Gonzales Ordered
Deference to the President*

BY KATE MARTIN

In the past year, White House Counsel Alberto Gonzales has been the architect of the administration's far-reaching efforts to substitute unreviewable presidential decisions for the rule of law in the fight against terrorism. And in the process, he has shown no love for civil liberties. As he recently told *The Wall Street Journal*, he sees it as the White House's job "to protect the country," and the courts' job "to tell us whether or not we've drawn the lines in the right places."

As early as October 2001, Gonzales was drafting a presidential order, issued Nov. 13, that ignored congressional restrictions on preventive detention. The order authorized secret military commission trials and unlimited military detention of noncitizens on the president's say-so. It directed the courts to accept as final the president's designation of an individual as a terrorist. After much criticism, new Defense Department regulations incorporated some protections from existing military law.

In January of this year, Gonzales decided that the United States could simply declare that the Geneva Conventions had no applicability to the prisoners being held in Guantanamo Bay. Again, after international, domestic, and State Department protest, the White House moderated its legal position, acknowledging the applicability of the conventions. However, the White House still claimed, contrary to the Third Geneva Convention and U.S. military regulations, that the president could simply declare that none of those captured overseas qualified for prisoner-of-war status under the conventions.

And in June 2002, Gonzales' view that the president has unilateral and unreviewable power over the lives and liberty of those here at home bore full fruit when the president signed an order authorizing the transfer of a U.S. citizen, arrested in Chicago, to a military brig, to be held without charges, incommunicado, and without access to counsel. Since then, the Justice Department—on behalf of the White House—has aggressively defended the policy in the courts.

Alberto Gonzales has made a significant impact in the

last year. But his work needs to be undone. If it is not, he will have engineered an extraordinary assumption of presidential power over the lives of individuals, unchecked by the separation of powers.

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