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'A Different Understanding With the President'

Web Q&A: Monday, 1 p.m. ET

» Reporter **Barton Gellman**, will be online on Monday, June 25 to answer readers' questions about the Cheney series. [Submit a Question Here](#).

By Barton Gellman and Jo Becker

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Just past the Oval Office, in the private dining room overlooking the South Lawn, [Vice President Cheney](#) joined [President Bush](#) at a round parquet table they shared once a week. Cheney brought a four-page text, written in strict secrecy by his lawyer. He carried it back out with him after lunch.

In less than an hour, the document traversed a West Wing circuit that gave its words the power of command. It changed hands four times, according to witnesses, with emphatic instructions to bypass staff review. When it returned to the Oval Office, in a blue portfolio embossed with the presidential seal, Bush pulled a felt-tip pen from his pocket and signed without sitting down. Almost no one else had seen the text.

Cheney's proposal had become a military order from the commander in chief. Foreign terrorism suspects held by the United States were stripped of access to any court -- civilian or military, domestic or foreign. They could be confined indefinitely without charges and would be tried, if at all, in closed "military commissions."

"What the hell just happened?" Secretary of State [Colin L. Powell](#) demanded, a witness said, when CNN announced the order that evening, Nov. 13, 2001. National security adviser [Condoleezza Rice](#), incensed, sent an aide to find out. Even witnesses to the Oval Office signing said they did not know the vice president had played any part.



Vice President Cheney, standing behind the president's desk during a July 2003 meeting, circumvented Secretary of State Colin L. Powell in 2001 on the military commissions order. [More Cheney photos...](#)

The episode was a defining moment in Cheney's tenure as the 46th vice president of the United States, a post the Constitution left all but devoid of formal authority. "Angler," as the Secret Service code-named him, has approached the levers of power obliquely, skirting orderly lines of debate he once enforced as chief of staff to President [Gerald R. Ford](#). He has battled a bureaucracy he saw as hostile, using intimate knowledge of its terrain. He has empowered aides to fight above their rank, taking on roles reserved in other times for a White House counsel or national security adviser. And he has found a ready patron in George W. Bush for edge-of-the-envelope views on executive supremacy that previous presidents did not assert.

Over the past six years, Cheney has shaped his times as no vice president has before. This article begins a four-part series that explores his methods and impact, drawing on interviews with more than 200 men and women who worked for, with or in opposition to Cheney's office. Many of those interviewed recounted events that have not been made public until now, sharing notes, e-mails, personal calendars and other records of their interaction with Cheney and his senior staff. The vice president declined to be interviewed.

Two articles, today and tomorrow, recount Cheney's campaign to magnify presidential war-making authority, arguably his most important legacy. Articles to follow will describe a span of influence that extends far beyond his well-known interests in energy and national defense.

In roles that have gone largely undetected, Cheney has served as gatekeeper for Supreme Court nominees, referee of Cabinet turf disputes, arbiter of budget appeals, editor of tax proposals and regulator in chief of water flows in his native West. On some subjects, officials said, he has displayed a strong pragmatic streak. On others he has served as enforcer of ideological principle, come what may.

Cheney is not, by nearly every inside account, the shadow president of popular lore. Bush has set his own course, not always in directions Cheney preferred. The president seized the helm when his No. 2 steered toward trouble, as Bush did, in time, on military commissions. Their one-on-one relationship is opaque, a vital unknown in assessing Cheney's impact on events. The two men speak of it seldom, if ever, with others. But officials who see them together often, not all of them admirers of the vice president, detect a strong sense of mutual confidence that Cheney is serving Bush's aims.

The vice president's reputation and, some say, his influence, have suffered in the past year and a half. Cheney lost his closest aide, [I. Lewis "Scooter" Libby](#), to a perjury conviction, and his onetime mentor, [Donald H. Rumsfeld](#), in a Cabinet purge. A shooting accident in Texas, and increasing gaps between his rhetoric and events in Iraq, have exposed him to ridicule and approval ratings in the teens. Cheney expresses indifference, in public and private, to any verdict but history's, and those close to him say he means it.

Waxing or waning, Cheney holds his purchase on an unrivaled portfolio across the executive branch. Bush works most naturally, close observers said, at the level of broad objectives, broadly declared. Cheney, they said, inhabits an operational world in which means are matched with ends and some of the most important choices are made. When particulars rise to presidential notice, Cheney often steers the preparation of options and sits with Bush, in side-by-side wing chairs, as he is briefed.

Before the president casts the only vote that counts, the final words of counsel nearly always come from Cheney.

'The Go-To Guy on the Hill'

In his Park Avenue corner suite at Cerberus Global Investments, [Dan Quayle](#) recalled the moment he learned how much his old job had changed. Cheney had just taken the oath of office, and Quayle paid a visit to offer advice from one vice president to another.

"I said, 'Dick, you know, you're going to be doing a lot of this international traveling, you're going to be doing all this political fundraising . . . you'll be going to the funerals,' " Quayle said in an interview earlier this year. "I mean, this is what vice presidents do. I said, 'We've all done it.' "

Cheney "got that little smile," Quayle said, and replied, "I have a different understanding with the president."

"He had the understanding with President Bush that he would be -- I'm just going to use the word 'surrogate chief of staff,' " said Quayle, whose membership on the Defense Policy Board gave him regular occasion to see Cheney privately over the following four years.



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Dick Cheney, the 46th vice president of the United States, entered office with unique qualifications.

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Cheney, 66, grew up in Lincoln, Neb., and Casper, Wyo., acquiring a Westerner's passion for hunting and fishing but not for the Democratic politics of his parents. He wed his high school sweetheart, Lynne Vincent, beginning what friends describe as a lifelong love affair. Cheney flunked out of Yale but became a highly regarded PhD candidate in political science at the University of Wisconsin -- avoiding the Vietnam War draft with five deferments along the way -- before abandoning the doctoral program and heading to Washington as a junior congressional aide.

He went on to build an unmatched Washington resume as White House chief of staff, House minority whip and secretary of defense. An aversion to political glad-handing and a series of chronic health problems, including four heart attacks, helped derail his presidential ambitions and shifted his focus to a lucrative stint as chairman of Halliburton, an oil services company. His controlled demeanor, ranging mainly from a tight-lipped gaze to the trademark half-smile, conceals what associates call an impish sense of humor and unusual kindness to subordinates.

Cheney's influence in the Bush administration is widely presumed but hard to illustrate. Many of the men and women who know him best said an explanation begins with the way he defined his role.

As the Bush administration prepared to take office, "I remember at the outset, during the transition, thinking, 'What do vice presidents do?'" said White House Chief of Staff [Joshua B. Bolten](#), who was then the Bush team's policy director. Bolten joined Libby, his counterpart in Cheney's office, to compile a list of "portfolios we thought might be appropriate." Their models, Bolten said, were Quayle's Council on Competitiveness and Al Gore's National Partnership for Reinventing Government.

"The vice president didn't particularly warm to that," Bolten recalled dryly.

Cheney preferred, and Bush approved, a mandate that gave him access to "every table and every meeting," making his voice heard in "whatever area the vice president feels he wants to be active in," Bolten said.

Cheney has used that mandate with singular force of will. Other recent vice presidents have enjoyed a standing invitation to join the president at "policy time." But Cheney's interventions have also come in the president's absence, at Cabinet and sub-Cabinet levels where his predecessors were seldom seen. He found pressure points and changed the course of events by "reaching down," a phrase that recurs often in interviews with current and former aides.



The president and vice president have their weekly lunch meeting in a private dining room just past the Oval Office in October 2001. A few weeks later, Cheney would bring a proposal written by his

lawyer in strict secrecy. [More Cheney photos...](#)

Mary Matalin, who was counselor to the vice president until 2003 and remains an informal adviser, described Cheney's portfolio as "the iron issues" -- a list that, as she defined it, comprises most of the core concerns of every recent president. Cheney took on "the economic issues, the security issues . . . the energy issues" -- and the White House legislative agenda, Matalin said, because he became "the go-to guy on the Hill." Other close aides noted, as well, a major role for Cheney in nominations and appointments.

As constitutional understudy, with no direct authority in the executive branch, Cheney has often worked through surrogates. Many of them owed their jobs to him.

While lawyers fought over the 2000 Florida ballot recount, with the presidential election in the balance, Cheney was already populating a prospective Bush administration. [Brian V.](#)

[McCormack](#), then his 26-year-old personal aide, said Cheney worked three cellphones from the round kitchen table of his townhouse in McLean, "making up lists" of nominees beginning with the secretaries of state, defense and the Treasury.

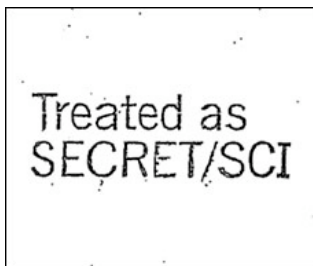
"His focus was that we need to prepare for the event that [the recount] comes out in our favor, because we will have a limited time frame," McCormack recalled.

Close allies found positions as chief and deputy chief of the Office of Management and Budget, deputy national security adviser, undersecretary of state, and assistant or deputy assistant secretary in numerous Cabinet departments. Other loyalists -- including McCormack, who progressed to assignments in Iraq's occupation authority and then on Bush's staff -- turned up in less senior, but still significant, posts.

In the years that followed, crossing Cheney would cost some of the same officials their jobs. [David Gribben](#), a friend from graduate school who became the vice president's chief of legislative affairs, said Cheney believes in the "educational use of power." Firing a disloyal or poorly performing official, he said, sometimes "sends a signal crisply." Cheney believes he is "using his authority to serve the American people, and he's obviously not afraid to be a rough opponent," Gribben said.

A prodigious appetite for work, officials said, prepares Cheney to shape the president's conversations with others. His Secret Service detail sometimes reports that he is awake and reading at 4:30 a.m. He receives a private intelligence briefing between 6:30 and 7 a.m., often identifying issues to be called to Bush's attention, and then sits in on the president's daily briefing an hour later. Aides said that Cheney insists on joining Bush by secure video link, no matter how many time zones divide them.

Stealth is among Cheney's most effective tools. Man-size Mosler safes, used elsewhere in government for classified secrets, store the workaday business of the office of the vice president. Even talking points for reporters are sometimes stamped "Treated As: Top Secret/SCI." Experts in and out of government said Cheney's office appears to have invented that designation, which alludes to "sensitive compartmented information," the most closely guarded category of government secrets. By adding the words "treated as," they said, Cheney seeks to protect unclassified work as though its disclosure would cause "exceptionally grave damage to national security."



A document from the Office of the Vice President is stamped "Treated as Secret/SCI" [More Cheney photos...](#)

Across the board, the vice president's office goes to unusual lengths to avoid transparency. Cheney declines to disclose the names or even the size of his staff, generally releases no public calendar and ordered the Secret Service to destroy his visitor logs. His general counsel has asserted that "the vice presidency is a unique office that is neither a part of the executive branch nor a part of the legislative branch," and is therefore exempt from rules governing either. Cheney is refusing to observe an executive order on the handling of national security secrets, and he proposed to abolish a federal office that insisted on auditing his compliance.

In the usual business of interagency consultation, proposals and information flow into the vice president's office from around the government, but high-ranking White House officials said in interviews that almost nothing flows out. Close aides to Cheney describe a similar one-way valve inside the office, with information flowing up to the vice president but little or no reaction flowing down.

All those methods would be on clear display when the "war on terror" began for Cheney after eight months in office.

A 'Triumvirate' and Its Leader

In a bunker beneath the East Wing of the White House, Cheney locked his eyes on CNN, chin resting on interlaced fingers. He was about to watch, in real time, as thousands were killed on Sept. 11, 2001.

Previous accounts have described Cheney's adrenaline-charged evacuation to the Presidential Emergency Operations Center that morning, a Secret Service agent on each arm. They have not detailed his reaction, 22 minutes later, when the south tower of the World Trade Center collapsed.

"There was a groan in the room that I won't forget, ever," one witness said. "It seemed like one groan from everyone" -- among them Rice; her deputy, Stephen J. Hadley; economic adviser Lawrence B. Lindsey; counselor Matalin; Cheney's chief of staff, Libby; and the vice president's wife.

Cheney made no sound. "I remember turning my head and looking at the vice president, and his expression never changed," said the witness, reading from a notebook of observations written that day. Cheney closed his eyes against the image for one long, slow blink.

Three people who were present, not all of them admirers, said they saw no sign then or later of the profound psychological transformation that has often been imputed to Cheney. What they saw, they said, was extraordinary self-containment and a rapid shift of focus to the machinery of power. While others assessed casualties and the work of "first responders," Cheney began planning for a conflict that would call upon lawyers as often as soldiers and spies.



In a bunker under the White House on Sept. 11, 2001, Cheney speaks to administration officials, including from far left, Joshua B. Bolten, Karen Hughes, Mary Matalin (standing), Condoleezza Rice and I. Lewis 'Scooter' Libby (behind Rice) [More Cheney photos....](#)

More than any one man in the months to come, Cheney freed Bush to fight the "war on terror" as he saw fit, animated by their shared belief that al-Qaeda's destruction would require what the vice president called "robust interrogation" to extract intelligence from captured suspects. With a small coterie of allies, Cheney supplied the rationale and political muscle to drive far-reaching legal changes through the White House, the Justice Department and the

Pentagon.

The way he did it -- adhering steadfastly to principle, freezing out dissent and discounting the risks of blow-back -- turned tactical victory into strategic defeat. By late last year, the Supreme Court had dealt three consecutive rebuffs to his claim of nearly unchecked authority for the commander in chief, setting precedents that will bind Bush's successors.

Yet even as Bush was forced into public retreats, an examination of subsequent events suggests that Cheney has quietly held his ground. Most of his operational agenda, in practice if not in principle, remains in place.

In expanding presidential power, Cheney's foremost agent was [David S. Addington](#), his formidable general counsel and legal adviser of many years. On the morning of Sept. 11, Addington was evacuated from the Eisenhower Executive Office Building next to the White House and began to make his way toward his Virginia home on foot. As he neared the Arlington Memorial Bridge, someone in the White House reached him with a message: Turn around. The vice president needs you.

Down in the bunker, according to a colleague with firsthand knowledge, Cheney and Addington began contemplating the founding question of the legal revolution to come: What extraordinary powers will the president need for his response?

Before the day ended, Cheney's lawyer joined forces with [Timothy E. Flanigan](#), the deputy White House counsel, linked by secure video from the Situation Room. Flanigan patched in [John C. Yoo](#) at the Justice Department's fourth-floor command center. White House counsel [Alberto R. Gonzales](#) joined later.

Thus formed the core legal team that Cheney oversaw, directly and indirectly, after the terrorist attacks.

Yoo, a Berkeley professor-turned-deputy chief of the Office of Legal Counsel, became the theorist of an insurrection against legal limits on the commander in chief. Addington, backed by Flanigan, found levers of government policy and wrote the words that moved them.

"Addington, Flanigan and Gonzales were really a triumvirate," recalled [Bradford A. Berenson](#), then an associate White House counsel. Yoo, he said, "was a supporting player."

Gonzales, a former Texas judge, had the seniority and the relationship with Bush. But Addington -- a man of imposing demeanor, intellect and experience -- dominated the group. Gonzales "was not a law-of-war expert and didn't have very developed views," Yoo recalled, echoing blunter observations by the Texan's White House colleagues.

Cheney 'Has the Portfolio'

Flanigan, with advice from Yoo, drafted the authorization for use of military force that Congress approved on Sept. 18. [[Read the authorization document](#)] Yoo said they used the broadest possible language because "this war was so different, you can't predict what might come up."

In fact, the triumvirate knew very well what would come next: the interception -- without a warrant -- of communications to and from the United States. Forbidden by federal law since 1978, the surveillance would soon be justified, in secret, as "incident to" the authority Congress had just granted. Yoo was already working on that memo, completing it on Sept. 25.

It was an extraordinary step, bypassing Congress and the courts, and its authors kept it secret from officials who were likely to object. Among the excluded was [John B. Bellinger III](#), a man for whom Cheney's attorney had "open contempt," according to a senior government lawyer who saw them often. The eavesdropping program was directly within Bellinger's purview as ranking national security lawyer in the White House, reporting to Rice. Addington had no line responsibility. But he had Cheney's proxy, and more than once he accused Bellinger, to his face, of selling out presidential authority for good "public relations" or

bureaucratic consensus.

Addington, who seldom speaks to reporters, declined to be interviewed.

"David is extremely principled and dedicated to doing what he feels is right, and can be a very tough customer when he perceives others as obstacles to achieving those goals," Berenson said. "But it's not personal in the sense that 'I don't like you.' It's all about the underlying principle."

Bryan Cunningham, Bellinger's former deputy, said: "Bellinger didn't know. That was a mistake." Cunningham said Rice's lawyer would have recommended vetting the surveillance program with the secret court that governs intelligence intercepts -- a step the Bush administration was forced to take five years later.



Post 9/11 Timeline

'A Muscular Response'

Vice President Cheney, more than any one man, freed President Bush to aggressively fight the "war on terror." With a small coterie of allies, Cheney supplied the rationale and political muscle to drive far-reaching legal changes through the White House, Justice Department and Pentagon. [More »](#)

On Oct. 25, 2001, the chairmen and ranking minority members of the intelligence committees were summoned to the White House for their first briefing on the eavesdropping and were told that it was one of the government's most closely compartmented secrets. Under Presidents George H.W. Bush or Bill Clinton, officials said, a conversation of that gravity would involve the commander in chief. But when the four lawmakers arrived in the West Wing lobby, an aide led them through the door on the right, away from the Oval Office.

"We met in the vice president's office," recalled former senator Bob Graham (D-Fla.). Bush had told Graham already, when the senator assumed the intelligence panel chairmanship, that "the vice president should be your point of contact in the White House." Cheney, the president said, "has the portfolio for intelligence activities."

'Oh, By the Way'

By late October, the vice president and his allies were losing patience with the Bush administration's review of a critical question facing U.S. forces in Afghanistan and elsewhere: What should be done with captured fighters from al-Qaeda and the Taliban? Federal trials? Courts-martial? Military commissions like the ones used for Nazis under President Franklin D. Roosevelt?

Cheney's staff did not reply to invitations to join the interagency working group led by Pierre Prosper, ambassador at large for war crimes. But Addington, the vice president's lawyer, knew what his client wanted, Berenson said. And Prosper's group was still debating details. "Once you start diving into it, and history has proven us right, these are complicated questions," one regular participant said.

The vice president saw it differently. "The interagency was just constipated," said one Cheney ally, who spoke on condition of anonymity.

Flanigan recalled a conversation with Addington at the time in which the two discussed the salutary effect of showing bureaucrats that the president could act "without their blessing -- and without the interminable process that goes along with getting that blessing."

Throughout his long government career, Cheney had counseled against that kind of policy surprise, insisting that unvetted decisions lead presidents to costly mistakes.



RELATED DOCUMENT

[Cheney's Advice to Baker](#)

Advice from Cheney to then incoming presidential chief of staff James A. Baker filled four pages of a yellow legal pad. View the actual notes and a transcript. [More »](#)

When [James A. Baker III](#) was tapped to be White House chief of staff in 1980, he interviewed most of his living predecessors. Advice from Cheney filled four pages of a yellow legal pad. Only once, to signify Cheney's greatest emphasis, did Baker write in all capital letters:

BE AN HONEST BROKER

DON'T USE THE PROCESS TO IMPOSE YOUR POLICY VIEWS ON PRES.

Cheney told Baker, according to the notes, that an "orderly paper flow is way you protect the Pres.," ensuring that any proposal has been tested against other views. Cheney added:

"It's not in anyone's interest to get an 'oh by the way decision' -- & all have to understand that. Can hurt the Pres. Bring it up at a Cab. mtg. Make sure everyone understands this."

In 1999, not long before he became Bush's running mate, Cheney warned again about "'oh, by the way' decisions" at a conference of White House historians. According to a transcript, he added: "The process of moving paper in and out of the Oval Office, who gets involved in the meetings, who does the president listen to, who gets a chance to talk to him before he makes a decision, is absolutely critical. It has to be managed in such a way that it has integrity."

Two years later, at his Nov. 13 lunch with Bush, Cheney brought the president the ultimate "oh, by the way" choice -- a far-reaching military order that most of Bush's top advisers had not seen.

According to Flanigan, Addington was not the first to think of military commissions but was the "best scholar of the FDR-era order" among their small group of trusted allies. "He gained a preeminent role by virtue of his sheer ability to turn out a draft of something in quick time."

That draft, said one of the few lawyers apprised of it, "was very closely held because it was coming right from the top."

'In Support of the President'

To pave the way for the military commissions, Yoo wrote an opinion on Nov. 6, 2001, declaring that Bush did not need approval from Congress or federal courts. Yoo said in an interview that he saw no need to inform the State Department, which hosts the archives of the Geneva Conventions and the government's leading experts on the law of war. "The issue we dealt with was: Can the president do it constitutionally?" Yoo said. "State -- they wouldn't have views on that."

Attorney General [John D. Ashcroft](#), was astonished to learn that the draft gave the Justice Department no role in choosing which alleged terrorists would be tried in military commissions. Over Veterans Day weekend, on Nov. 10, he took his objections to the White House.

The attorney general found Cheney, not Bush, at the broad conference table in the Roosevelt Room. According to participants, Ashcroft said that he was the president's senior law

enforcement officer, supervised the FBI and oversaw terrorism prosecutions nationwide. The Justice Department, he said, had to have a voice in the tribunal process. He was enraged to discover that Yoo, his subordinate, had recommended otherwise -- as part of a strategy to deny jurisdiction to U.S. courts.

Raising his voice, participants said, Ashcroft talked over Addington and brushed aside interjections from Cheney. "The thing I remember about it is how rude, there's no other word for it, the attorney general was to the vice president," said one of those in the room. Asked recently about the confrontation, Ashcroft replied curtly: "I'm just not prepared to comment on that."

According to Yoo and three other officials, Ashcroft did not persuade Cheney and got no audience with Bush. Bolten, in an October 2006 interview after becoming Bush's chief of staff, did not deny that account. He signaled an intention to operate differently in the second term.

"In my six months' experience it would not fall to the vice president to referee that kind of thing," Bolten added. "If it is a presidential decision, the president will make it. . . . I think the vice president appreciates that -- that his role is in support of the president, and not as a second-tier substitute."

Three days after the Ashcroft meeting, Cheney brought the order for military commissions to Bush. No one told Bellinger, Rice or Powell, who continued to think that Prosper's working group was at the helm.

After leaving Bush's private dining room, the vice president took no chances on a last-minute objection. He sent the order on a swift path to execution that left no sign of his role. After Addington and Flanigan, the text passed to Berenson, the associate White House counsel. Cheney's link to the document broke there: Berenson was not told of its provenance.

Berenson rushed the order to deputy staff secretary [Stuart W. Bowen Jr.](#), bearing instructions to prepare it for signature immediately -- without advance distribution to the president's top advisers. Bowen objected, he told colleagues later, saying he had handled thousands of presidential documents without ever bypassing strict procedures of coordination and review. He relented, one White House official said, only after "rapid, urgent persuasion" that Bush was standing by to sign and that the order was too sensitive to delay. [[Read the order](#)]

In an interview, Berenson said it was his understanding that "someone had briefed" the president "and gone over it" already. He added: "I don't know who that was."

'It'll Leak in 10 Minutes'

On Nov. 14, 2001, the day after Bush signed the commissions order, Cheney took the next big step. He told the U.S. Chamber of Commerce that terrorists do not "deserve to be treated as prisoners of war." [[Read Cheney's full remarks](#)]

The president had not yet made that decision. Ten weeks passed, and the Bush administration fought one of its fiercest internal brawls, before Bush ratified the policy that Cheney had declared: The Geneva Conventions would not apply to al-Qaeda or Taliban fighters captured on the battlefield.

Since 1949, Geneva had accorded protections to civilians and combatants in a war zone. Those protections varied with status, but the prevailing U.S. and international view was that anyone under military control -- even an alleged war criminal -- has some rights. Rumsfeld, elaborating on the position Cheney staked out, cast that interpretation aside. All captured fighters in Afghanistan, he said at a news briefing, are "unlawful combatants" who "do not have any rights" under Geneva.

At the White House, Bellinger sent Rice a blunt -- and, he thought, private -- legal warning. The Cheney-Rumsfeld position would place the president indisputably in breach of international law and would undermine cooperation from allied governments. Faxes had been

pouring in at the State Department since the order for military commissions was signed, with even British authorities warning that they could not hand over suspects if the U.S. government withdrew from accepted legal norms.

One lawyer in his office said that Bellinger was chagrined to learn, indirectly, that Cheney had read the confidential memo and "was concerned" about his advice. Thus Bellinger discovered an unannounced standing order: Documents prepared for the national security adviser, another White House official said, were "routed outside the formal process" to Cheney, too. The reverse did not apply.

Powell asked for a meeting with Bush. The same day, Jan. 25, 2002, Cheney's office struck a preemptive blow. It appeared to come from Gonzales, a longtime Bush confidant whom the president nicknamed "Fredo." Hours after Powell made his request, Gonzales signed his name to a memo that anticipated and undermined the State Department's talking points. The true author has long been a subject of speculation, for reasons including its unorthodox format and a subtly mocking tone that is not a Gonzales hallmark.

A White House lawyer with direct knowledge said Cheney's lawyer, Addington, wrote the memo. Flanigan passed it to Gonzales, and Gonzales sent it as "my judgment" to Bush [[Read the memo](#)]. If Bush consulted Cheney after that, the vice president became a sounding board for advice he originated himself.

Addington, under Gonzales's name, appealed to the president by quoting Bush's own declaration that "the war against terrorism is a new kind of war." Addington described the Geneva Conventions as "quaint," casting Powell as a defender of "obsolete" rules devised for another time. If Bush followed Powell's lead, Addington suggested, U.S. forces would be obliged to provide athletic gear and commissary privileges to captured terrorists.

According to [David Bowker](#), a State Department lawyer, Powell did not in fact argue that al-Qaeda and Taliban forces deserved the privileges of prisoners of war. Powell said Geneva rules entitled each detainee to a status review, but he predicted that few, if any, would qualify as POWs, because they did not wear uniforms on the battlefield or obey a lawful chain of command. "We said, 'If you give legal process and you follow the rules, you're going to reach substantially the same result and the courts will defer to you,'" Bowker said.

Late that afternoon, as the "Gonzales memo" began to circulate around the government, Addington turned to Flanigan.

"It'll leak in 10 minutes," he predicted, according to a witness.

The next morning's Washington Times carried a front-page article in which administration sources accused Powell of "bowing to pressure from the political left" and advocating that terrorists be given "all sorts of amenities, including exercise rooms and canteens."

Though the report portrayed Powell as soft on enemies, two senior government lawyers said, Addington blamed the State Department for leaking it. The breach of secrecy, Addington said, proved that [William H. Taft IV](#), Powell's legal adviser, could not be trusted. Taft joined Bellinger on a growing -- and explicit -- blacklist, excluded from consultation. "I was off the team," Taft said in an interview. The vice president's lawyer had marked him an enemy, but Taft did not know he was at war.

"Which, of course, is why you're ripe for the taking, isn't it?" he added, laughing briefly.

Staff researcher Julie Tate contributed to this report.

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