

Is Eric Holder the right man to lead the Justice Department?

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CONTRIBUTING COLUMNIST

When Attorney General nominee Eric Holder told the Senate Judiciary Committee that he had made a mistake in how he had handled the clemency request of fugitive millionaire Mark Rich back in late 1999, most of the steam went out the pressure cooker that is the confirmation hearings. Republicans threatened to question Holder extensively about his role as deputy attorney general in President Clinton's grant of clemency to Rich, who had been on the lam after being convicted of racketeering and other federal crimes.

With the tension defused, Holder likely sealed a swift confirmation vote after he reassured the committee that, as attorney general, things would change in the beleaguered Department of Justice, though he did not specify how.

He was forthcoming about his views regarding water boarding, Guantanamo and the limits of presidential powers. He told Sen. Leahy that he thought Bush's "enhanced interrogation technique" was indeed torture. And while closing Guantanamo is likely to take some time —

much to the chagrin of the Left — Holder said: "I want to assure the American people that Guantanamo will be closed."

On civil liberties, Holder sounded like a Washington veteran. He told the Committee that "that there's not a tension between respecting our great tradition of civil liberties and having very effective law enforcement and anti-terror tools. There's a false choice, I think, that is often presented." That may be true in theory, but under the pressure of an immediate terrorist threat "anti-terror tools" tend to prevail over civil liberties. That will be one of Holder's first tests of his own mettle and independence from the president.

We gained some insight into Holder's thinking on this issue when Senator John Cornyn asked him to explain his rationale for supporting the pardons of 16 convicted Puerto Rican independence fighters who had been convicted for a miscellany of federal crimes committed in the '70s and '80s, from bank robbery to arson. Holder first responded that, "Given the fact that — the nature of the offenses of which they were convicted, they did not directly harm anyone. They were not responsible directly for any murders. But I think another factor is that we deal with a world now that is

different than the one that existed then. That decision was made in a pre-9/11 context. I don't know what President Clinton would do now. I tend to think that I would probably view that case in a different way in a post-9/11 world."

It's not surprising that any law enforcement official will see the world through the 9/11 lens. We probably wouldn't want it many other ways. But it is unclear why the fate of these 16 individuals who "did not directly harm anyone" and who "were not responsible directly for any murders" would be different in a post-9/11 world. Unless, of course, you factor in politics. Would the new president today be willing to pay the political price (and potentially tarnish his legacy) by granting clemency to "terrorists," as Cornyn referred to them? Not if his attorney general had anything to say about it.

This may not be a bad thing. Ultimately, the office of attorney general requires independence and a fortitude of character to be able to tell the president that he's breaking the law and not use it instead to find loopholes in the law to please the president (following the Alberto Gonzales model). We'll see how Holder responds to

White House pressure.

One action that would be welcome would be a rewrite of the FBI investigation guidelines that were significantly changed by former Attorney General John Ashcroft after 9/11. These changes opened the doors for FBI agents to spy on peace groups and other public interest groups. Holder's responses to questions about warrantless wiretapping were vague enough that it's hard to speculate whether any changes to the law will happen. But he was strong in his statements about the limited powers of the president, even in times of war.

On balance, I'm optimistic that changes within the Department of Justice will happen. But I'm not as optimistic that there will be a significant departure from the way DOJ runs its counter-terrorism activities nor that the outlook for civil liberties will improve. Holder has a large task ahead to find the balance between liberties and safety. But the key will be in the people's ability to exert pressure on the new president to ensure that civil liberties don't take a back seat to anti-terrorism tools.

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grant meant to aid low-income families while they transition into employment or housing or wait for disability benefits. But singles and couples without children are ineligible.

"If you don't have a kid, you're often without without safety net programs," said Stephanie Tama-Sweet, the Oregon Food Bank's public policy advocate, who is part of a coalition aiming to have General Assistance reinstated. "So people who have disabilities apply for federal benefits, but the wait time is so long that there's basically no help for them in the meantime."

General Assistance, which used to fill that gap, grew out of Depression-era programs providing financial relief to unemployed workers. In the years before its elimination, General Assistance gave low-income Oregonians applying for Social Security supplemental income (\$314 a month for individuals, and \$628 for couples), medical coverage through the Oregon Health Plan, and dedicated caseworkers to help them navigate the benefits application process.

That last feature was crucial, says Tama-Sweet, because many applications are rejected for being incorrectly filled out or missing documentation. "It's a really complex process," Tama-Sweet said. "If they can find anything wrong with your application, you're just denied immediately."

In January 2003, to remedy a budget deficit, the state closed the General Assistance program, which at the time served about 2,500 people. An abbreviated version of the program was reintroduced that fall, but two years later, it was axed entirely.

As a result, advocates say, people without children who are waiting on disability claims are essentially condemned to several years of poverty. They may lose

their housing or healthcare, land in emergency rooms and jails, or worse.

"(People) wind up in situations that are really dire — up to and including dying — because they have no support," said John Mullin, a lobbyist with the Oregon Law Center who is also part of the General Assistance coalition. Until 2006, Mullin was the director of Clackamas County Social Services, and he says the agency lost an important tool for helping its clients when General Assistance went away.

"Unfortunately," Mullin added, "People can define needs based on what services are available ... People stop talking about General Assistance because it hasn't been funded since 2005."

Mellani Calvin, a benefits specialist at Central City Concern, helps homeless clients who are disabled apply for Social Security. She hasn't stopped talking about General Assistance — in fact, she says the affects of the General Assistance cut on the low-income population are obvious and widespread.

"It was truly a black, black day when General Assistance went away," Calvin said. "It's a really visible effect that people are scratching and scraping, and canning and metal scrapping, and all kinds of stuff, because they have zero income now. If they're disabled, they're going to do anything possible."

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A newly published report by the National Alliance to End Homelessness finds that despite a national decline in homelessness between 2005 and 2007, Oregon saw an 8 percent rise — that is, almost 1,400 more people landed on the streets. Calvin and other General Assistance advocates see a direct link between the program's elimination and increasing rates of poverty.

Lynne Walker singles out General

Assistance as the thing that could have prevented her descent into extreme poverty while she tried to secure federal benefits.

Walker says her mental health issues got her fired from her full-time job in early 2007, when she was still waiting to hear back about the disability claim she filed in July 2006. After that, with only intermittent part-time work to support her, Walker sold off most of her possessions and moved into her van with her dog, Toby. They spent the next summer in a tent.

"I have no support network, I have no family, I have no husband — I have no one except my dog," said Walker, whose husband passed away in 1999. "The General Assistance was supposed to be the piece that carried you through."

Oregon lawmakers agree, and in 2007, the House Human Services Committee unanimously endorsed a bill reinstating the General Assistance program. Support was bipartisan and overwhelming: "We had the white-hair Republicans bawling," said Calvin, who brought two of her clients to testify about what they would do with \$314 a month from General Assistance. However, the legislature's budget committee did not grant funding for the bill.

General Assistance advocates are trying again this year. House Bill 2051, which Mullin hopes will have a hearing the week of Jan. 26, would reinstate the program as it existed in 2003.

The financial picture is no prettier this time around: State economists predict a revenue shortfall of as much as \$2 billion for the 2009-2011 biennium. Governor Ted Kulongoski's recommended budget, announced in September, pours money into education and children's health care but slashes social services for everyone else.

"It's just a horrible revenue picture down here, but that doesn't mean the need

goes away," Mullin said. "It's basically just a matter of the dollars that are available and the priority that legislators put on it."

DHS estimates that a renewed General Assistance program would run the state \$5 million for the cash assistance, \$3 million for staffing, and \$27 million for health care through the Oregon Health Plan.

Applicants who are awarded Social Security are paid retroactively for every month since they first applied. As an incentive to provide temporary assistance, the Social Security Administration allows states to claim some of that money as reimbursement. DHS would recoup about 70 percent of the cash assistance expenditures, which could go back into the pot for new General Assistance grants.

"I'm really hopeful that it'll come back," Calvin said. If the case-management component worked correctly, people would have help preparing complete Social Security applications with a greater chance of success, she added. "Then there would no longer be the massive amount of time for things to go wrong."

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Lynne Walker, meanwhile, is still waiting. She has had housing since July of last year, when JOIN outreach workers helped her obtain a voucher for her Gresham apartment. Most of her furniture is salvaged from trash bins; her curtains are bargain sheets hung from tubes of rolled-up paper.

Walker is working with the benefits assistance program at Central City Concern to try to resolve her Social Security claim, but she is frustrated that it has taken so long.

"This is America, and I paid taxes, and my husband paid taxes, and we paid Social Security," Walker said. "And I would like it back now."

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