

## Cheney Provokes Brawl Within GOP Over NSA Wiretaps

by Edward Spannaus

Frantic to prevent any further exposure of his illegal wiretap and surveillance programs, Vice President Dick Cheney provoked an extraordinary confrontation with the Republican Chairman of the Senate Judiciary Committee, by going behind his back to block a hearing on the NSA spying program.

In a highly unusual public letter, Committee Chairman Arlen Specter (R-Pa.) then accused Cheney of attempting to thwart “the constitutional authority and responsibility of the Congress, and specifically the Judiciary Committee,” by improperly interfering in the committee’s procedures and deliberations. When the NSA domestic spying program was first disclosed last December, it was clear that Cheney treated this as his personal operation, and he has done nothing since that time to dispel this notion. It is also abundantly clear that what has been acknowledged so far, is only the tip of the iceberg, and that there is a much broader spying and data-mining program underway, which Cheney and the White House are desperate to keep hidden from any public disclosure or Congressional oversight.

### No Phone Company Testimony

Cheney’s sabotage against the Judiciary Committee first came to light in a committee meeting on Tuesday, June 6, called to decide on a hearing at which testimony would be taken from the executives of telecommunications companies which, reports say, were providing the NSA with full access to their call records.

Specter said that he had been advised by the senior Republican on the committee, Sen. Orrin Hatch (R-Utah) that the phone company executives “will be precluded from providing any information” because it is classified. Specter termed this “insufficient and unacceptable,” but nonetheless, based on discussions with Hatch, “who has been in touch with the Vice President,” he said he would defer calling in the phone companies, based on assurances that Hatch had gotten from Cheney.

These assurances were that Cheney would take a look at the bills which Specter and others on the committee have pending, concerning the NSA spying program, and that the Administration *might* agree to Specter’s proposal, which is to send the NSA surveillance program to the Foreign Intelligence Surveillance Court for review as to its constitutionality.

Specter’s apparent willingness to defer to the Hatch-Cheney agreement, set off a firestorm of attacks, starting with Sen. Patrick Leahy (D-Vt.), the senior Democrat on the committee. Leahy accused Specter of backing off from having the telephone companies come in to testify, and of leaving it up to Dick Cheney to tell the committee what it should know, or what the phone companies really wanted to say.

Sen. Ted Kennedy (D-Mass.) gave a long speech charging that the committee was abdicating its responsibility to deal with the NSA surveillance issue and its legal and constitutional justification. And Sen. Dick Durbin (D-Ill.) noted that Specter has stood up to the Administration on many questions, and has shown leadership on the NSA surveillance issue, and therefore, “I am completely at a loss to explain what you have done today.” Now, Durbin suggested, the committee is going to bring in Dick Cheney as the constitutional arbiter on the rights of Americans. As the session proceeded, Specter got more and more defensive, and at the end of the hearing, he was categorically denying that he had backed off, or that he was abdicating his responsibility.

The next day, June 7, however, chairman Specter fired off his blistering letter to the Vice President, which the Senator quickly made public, accusing Cheney of interfering with the committee’s efforts to investigate the NSA spy program, and of lobbying committee Republicans behind his back. “It is neither pleasant nor easy to raise these issues with the Administration of my own party,” Specter wrote, “but I do so because of their importance.”

Specter accused the Administration of denigrating the

constitutional authority and responsibility of Congress, and especially the Senate Judiciary Committee. Specter described how he had agreed with committee members to have the telephone executives testify at a closed session of the committee, but he then learned that Cheney had called GOP members of his committee, urging them to oppose any hearing, and further, that Cheney had told committee members that the telephone company executives had been instructed not to provide any information to the committee, on the grounds that they are prohibited from disclosing classified information.

The next day, Cheney admitted that he had spoken to other Republicans on the Committee to try to block testimony by telephone company executives. In a letter to Specter, Cheney said that, as Vice President, he has frequent contact with Senators, and that: "The respectful and candid exchange of views is something to be encouraged rather than avoided."

Cheney's reference to a "candid exchange of views" brings to mind the incident two years ago, when Cheney told Sen. Patrick Leahy, the ranking member of the Judiciary Committee, in gutter terms, to perform an unnatural act upon himself, which was then described by Cheney's spokesman as a "frank exchange of views" with the Vermont Democrat. Only this time, Cheney was addressing a fellow Republican.

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## Documentation

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# Senators Take On Cheney

*Excerpts from the meeting of Senate Judiciary Committee, June 8, 2006, are published below:*

**Sen. Patrick Leahy:** Well, Mr. Chairman, as I understand, what we're deferring is saying that we won't decide what powers under the Constitution the President has, we'll just defer that to him; we won't ask any questions about that. This is a President who has done more signing statements than all Presidents in history—most of which say that he will not follow parts of the law that we passed.

We won't have the telephone companies in . . . where we might find out independently what they want, because we'll wait for Dick Cheney to tell us what we should know or what it is they really wanted to say.

Why don't we just recess for the rest of the year, pass a resolution which a Republican-controlled Congress could easily pass, and just simply say: "We'll have no more hearings and Vice President Cheney will just tell the nation what laws we'll have; he'll let us know what laws will be followed, and which laws will not be followed."

**Sen. Richard Durbin:** Mr. Chairman . . . I think you have been an independent and strong voice for oversight by this committee. And I don't think it has made you popular at the White House on some given days. . . .

That is why I am completely at loss to explain what you have done today. I really felt that you had shown leadership again when it came to this disclosure by *USA Today*. And now, to suggest that we are going to back off the investigation, and to walk away from oversight, I think is wrong. I think it's inconsistent with our constitutional responsibility.

If I understand where we are today, based on what's been said, we will now leave it to the media to investigate this administration; we will depend on leaks and front-page stories in *USA Today* to discover programs which members of Congress have no knowledge of; we are somehow going to bring Vice President Cheney in as the constitutional arbiter when it comes to the individual rights of Americans.

*Below are excerpts from the letter Sen. Arlen Specter sent to Vice President Richard B. Cheney, June 7, 2006.*

No one has been more supportive of a strong national defense and tough action against terrorism than I. However, the Administration's continuing position on the NSA electronic surveillance program rejects the historical constitutional practice of judicial approval of warrants before wiretapping, and denigrates the constitutional authority and responsibility of the Congress, and specifically the Judiciary Committee, to conduct oversight on constitutional issues. . . .

When there were public disclosures about the telephone companies turning over millions of customer records involving allegedly billions of telephone calls, the Judiciary Committee scheduled a hearing of the chief executive officers of the four telephone companies involved. . . .

I was advised yesterday that you had called Republican members of the Judiciary Committee lobbying them to oppose any Judiciary Committee hearing, even a closed one, with the telephone companies. I was further advised that you told those Republican members that the telephone companies had been instructed not to provide any information to the Committee, as they were prohibited from disclosing classified information.

I was surprised, to say the least, that you sought to influence—really determine—the action of the Committee without calling me first, or at least calling me at some point. . . .

If an accommodation cannot be reached with the Administration, the Judiciary Committee will consider confronting the issue with subpoenas. . . .

We press this issue in the context of repeated stances by the Administration on expansion of Article II power, frequently at the expense of Congress's Article I authority. There are the Presidential signing statements, where the President seeks to cherry-pick which parts of the statute he will follow. . . .

All of this is occurring in the context where the Administration is continuing warrantless wiretaps in violation of the Foreign Intelligence Surveillance Act, and is preventing the Senate Judiciary Committee from carrying out its constitutional responsibility for Congressional oversight. . . .