

Libby Trial Fingers Cheney; Now Congress Must Do Its Job

by Edward Spannaus

The biggest mistake that Members of Congress are making, in the view of a number of qualified observers, is sitting back during the Lewis Libby trial, and hoping that Special Prosecutor Patrick Fitzgerald will do their job for them.

No matter what the outcome of the Libby trial, and no matter what further steps Fitzgerald may or may not take after the trial to pursue the Vice President, the Congress has its own unique, independent, and urgent responsibility under the U.S. Constitution, to launch the process immediately, to remove Dick Cheney from office.

What has emerged in the Libby trial concerning Cheney's role in the Valerie Plame affair, is substantial and damning, but it is only one part of the array of impeachable offenses committed by Dick Cheney over the past six years, through which he has subverted the Constitution and abused his powers of office. It is known that Cheney and his office were in the forefront of launching aggressive war, using that war to enrich Cheney and his pals through private contracting boondoggles involving Halliburton and others, promoting torture and abuse of prisoners in violation of U.S. laws and international treaties, promoting the practice of "extraordinary renditions" to abduct suspects and send them to third countries to be tortured, and of course the unprecedented use of "signing statements" by the President to subvert the Constitutional system of separation of powers and checks and balances. The list goes on—but of course, Congress knows all this; its members know the bill of impeachment, because they have attempted to investigate all this in recent years, although under tight restraints which are now loosened as a result of the November elections.

Having made that essential point, we now proceed to briefly look at the growing drumbeat for Cheney's removal, and then to review some of the damning evidence against Cheney which is now part of the public record as a result of the Libby trial.

The Drumbeat Grows

During the last week of the Libby trial, a number of establishment media outlets featured the threat posed to Cheney by the Libby trial and other revelations about him.

- On Feb. 19, the *National Journal* reported that if Libby is found guilty, Federal investigators are likely to probe further to determine if Libby devised a cover story to shield Cheney. The *Journal* added that investigators will probe whether Cheney knew about the leaks of Valerie Plame's CIA identity ahead of time, or encouraged Libby to leak information to reporters about her status. The article cited some of the same material from Libby's description of his conversations with Cheney, which are excerpted below. (See *Documentation*.)

- Also on Feb. 19, MSNBC correspondent David Shuster cited the *National Journal* article, and went on to report: "Legal sources confirm to MSNBC tonight that if Libby is convicted, prosecutors are expected to attempt to revisit Libby's vague testimony about Vice President Cheney. The idea is that prosecutors would seek to flip Libby in order to get at some of the lingering suspicions about the Vice President.×"

- On Feb. 20, the *New York Times* ran a major front-page article entitled, "Trial Spotlights Cheney's Power as an Infighter," reporting that the testimony and evidence in the Libby case is "bringing into bolder relief a portrait of a vice president with free rein to operate inside the White House as he saw fit in order to debunk the charges of a critic of the war in Iraq."

"The evidence in the trial shows Vice President Dick Cheney and Mr. Libby, his former chief of staff, countermanning and even occasionally misleading colleagues at the highest levels of Mr. Bush's inner circle as the two pursued their own goal of clearing the vice president's name in connection with flawed intelligence used in the case of war. . . . Unbeknownst to their colleagues, according to testimony, the



Dick Cheney's handwritten notes, on his copy of the July 6, 2003 Joe Wilson New York Times op-ed which Cheney had clipped and kept on his desk, according to Libby's grand jury testimony. Libby testified that the notes read: "Have they done this sort of thing before? Send an Amb. to answer a question? Do we ordinarily send people out pro bono to work for us? Or did his wife send him on a junket?"

two carried out a covert public relations campaign to defend not only the case for war, but also Mr. Cheney's connection to the flawed intelligence."

- On Feb. 22, ABC News pointed to Cheney as the guilty party behind Scooter Libby. "Is Cheney Next?" was the headline of the published story, which asked, "Could a guilty verdict for a former aide bring further criminal scrutiny of Vice President Dick Cheney?" The answer—"yes"—came from a former deputy to Whitewater independent counsel Kenneth Starr, who said that a natural follow-on to the Libby trial, would be to determine whether Cheney was involved in obstructing justice. He cited Libby's grand jury testimony in which Libby told Cheney, that he had first learned about Valerie Plame from NBC reporter Tim Russert—even though both of them knew that Libby had actually first learned about Plame from Cheney himself. One scenario is that if Libby is convicted, Fitzgerald could then offer leniency to Libby's testimony about Cheney's role.

- The March issue of *Gentleman's Quarterly*, in a feature called "The People v. Richard B. Cheney," laid out a set of potential Articles of Impeachment against the Vice President, for concocting fraudulent intelligence to justify the invasion of Iraq, obstructing the nation's intelligence-gathering institutions, and subverting the authority and functions of Congress by means of the secret proceedings of his Energy Task Force.

Libby: A Scapegoat?

The Libby trial concluded with a mighty thunderclap from Fitzgerald on Feb. 20—which received scant attention from much of the news media. The backdrop was this:

Pursuing their theme that Libby was a scapegoat for others, Libby's lawyers stressed repeatedly that other Administration officials, namely Richard Armitage, Karl Rove, and Ari Fleischer, had told reporters about Valerie Plame, yet the White House was hanging Libby out "as a public scapegoat." Libby's lead lawyer Ted Wells put great emphasis on Cheney's famous "meat grinder" quote, submitted as a trial

exhibit—"Not going to protect one staffer & sacrifice the guy the Pres. [crossed out] that was asked to stick his neck in the meat grinder because of the incompetence of others"—as the best evidence of Libby's state of mind. Wells argued that Libby had no motive to lie; rather, he was just concerned that he was being hung out to dry.

(Isn't it a bit ironic, that the "best evidence" of Libby's state of mind, is a statement written by Dick Cheney?)

As part of their "somebody else did it" line of defense, Libby's lawyers further put the spotlight on Cheney in their closing arguments, with Wells asserting that the prosecution, by its questions, "really tried to put a cloud over Vice President Cheney," by suggesting that Cheney had told Libby to disclose Plame's identity.

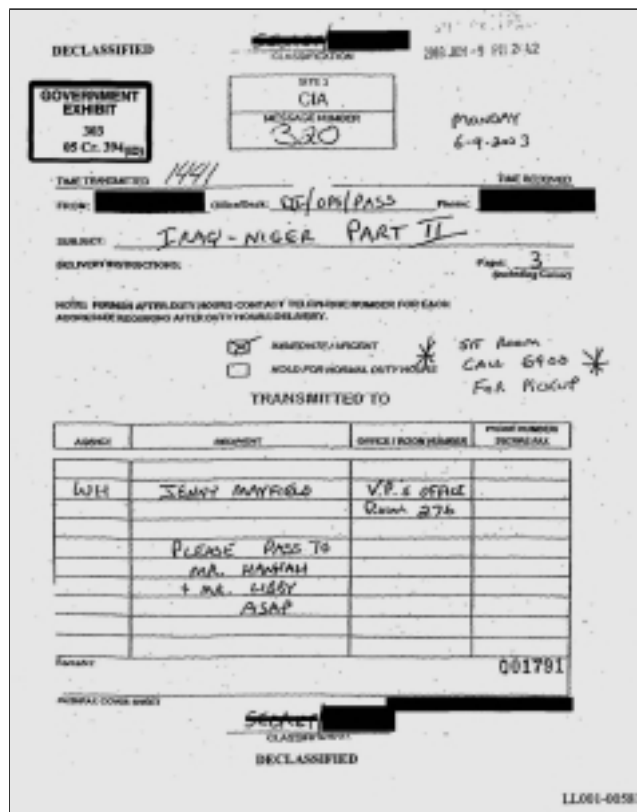
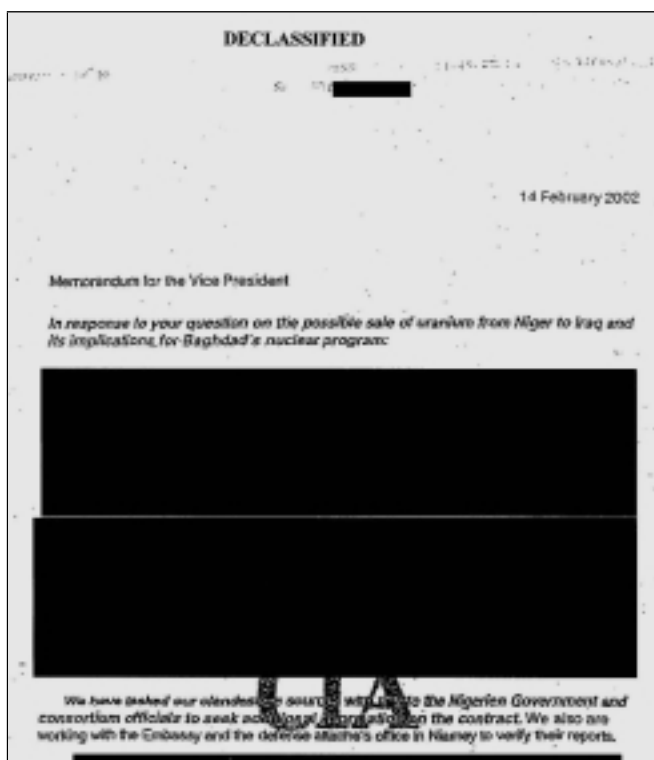
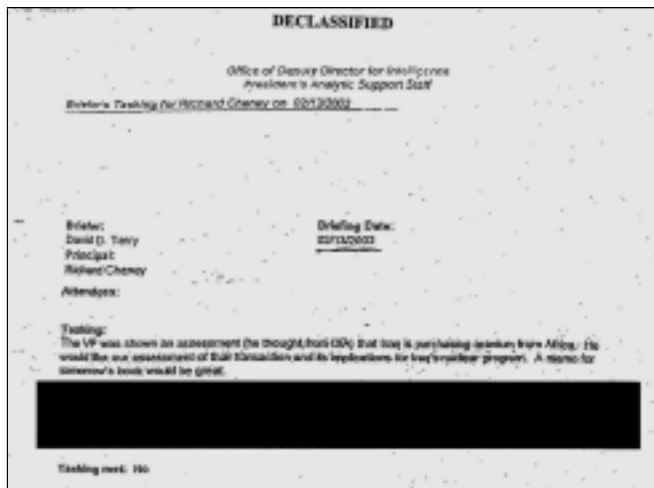
Although trying not to be too obvious in doing exactly what Fitzgerald had accused him of doing—seeking jury nullification—Wells came back again and again to the fact that there was war between the CIA and the White House, and that Libby was taking the fall. "Don't sacrifice Scooter Libby because of how you feel about the war in Iraq, or the Bush Administration," Wells implored the jury in closing.

'A Cloud Over the Vice President'

"There *is* a cloud over the Vice President," Fitzgerald told the jury in his final summation, pointing to Cheney's handwritten notes on his copy of Wilson's *New York Times* op-ed (see illustration), to Cheney's many discussions with Libby about Joe Wilson, and the fact that "the Vice President sent Mr. Libby off to meet with [*Times* reporter] Judith Miller"

"We didn't put that cloud there," Fitzgerald said, emphasizing: "That cloud remains there, because the defendant obstructed justice and lied about what happened. That cloud is something you can't pretend isn't there."

Fitzgerald also highlighted for the jury the fact that Libby discussed his story with Cheney, knowing that the Federal investigation was underway. He's not supposed to be talking to other people, Fitzgerald noted, but "the only person he tells



When Joe Wilson started speaking out about his mission to Niger which debunked the fraudulent Iraq/Niger uranium claim, Cheney insisted that he was not responsible for Wilson's trip and knew nothing about it. These documents show otherwise. On the top left is a note by Cheney's CIA briefer, showing that on Feb. 13, 2002, the Vice President asked for CIA's assessment of reports that Iraq was purchasing uranium from Africa. The document (bottom left) shows that Cheney was informed the very next day, that CIA, in response to "your question" had "tasked our clandestine source with ties to the Nigerian Government" to seek additional information. The document (above) shows that these documents were faxed to Cheney's office on June 9, 2003—four week's before Wilson's New York Times op-ed.

is the Vice President, the guy who was his source. Think about that."

Throughout the final day, both prosecution and defense lawyers highlighted the fact that all of Libby's contacts with reporters were at Cheney's direction. Defense attorney Wells himself, for example, trying to explain why Libby took two hours out of a busy schedule dealing with urgent national security and terrorism matters on July 12, to meet with Judith Miller, told the jury that the reason Libby did this, was because Cheney had directed him to meet with her and to tell her about the National Intelligence Estimate (see *Documentation*). President Bush had just allegedly declassified the NIE at Cheney's request so that it could be leaked to a reporter, and,

Wells said, "this was a secret mission that only three people in the world knew about—the President, the Vice President, and Scooter Libby."

People Could Get Killed

Although the issue of whether Valerie Plame was a covert agent was excluded as an issue by the judge in the Libby trial—since the crime charged in the case was not the leak of Plame's identity, but Libby's lies to the FBI and the grand jury—Fitzgerald did succeed in featuring it prominently in his closing statement.

In showing why it would have been impossible for Libby to have forgotten all of his conversations about Plame prior

to his mid-July conversation with NBC reporter Tim Russert, Fitzgerald emphasized the uniqueness and the importance of the Plame issue as well: the anger that Cheney and Libby had toward Wilson for undermining their case for the Iraq War.

Among the pre-Russert discussions described by Fitzgerald, was a June 14 meeting with CIA briefer Craig Schmall, in which it was Libby who told Schmall, that Wilson's wife worked for the CIA; Libby asked Schmall why Wilson was told that Cheney had instigated his fact-finding mission to Africa. (See illustrations documenting that it was indeed Cheney's inquiry which was the trigger for Wilson's trip.)

Schmall testified that he had been very alarmed by the exposure of Plame in a Robert Novak syndicated column on July 14, 2003, and that he had told Cheney and Libby that the people Plame had worked with in foreign countries could be harrassed, arrested, tortured, or killed. Therefore, in his closing argument, Fitzgerald simply recalled what Schmall had said, and he told the jury, "if you're talking about something that could get people killed, you'd remember it; that would be important."

‘What Was the Role of the Vice President?’

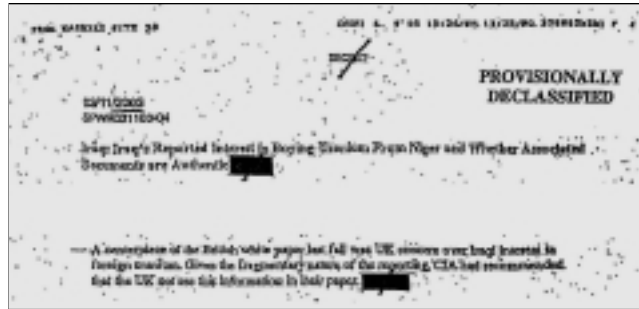
In his closing remarks to the jury, Fitzgerald returned to the theme of the "cloud over the Vice President." "Don't you think that the American people were entitled to some straight answers?" Fitzgerald asked. He pointed out that when a critic of the war (i.e., Joe Wilson) went public, he was smeared, and the fact that his wife worked in the CIA's non-proliferation division was spread all over the newspapers.

"People wanted to know, who did it? What was the role of Mr. Libby? What was the role of the Vice President?" The FBI and the grand jury deserved straight answers, Fitzgerald declared, but instead, Libby "threw sand in [their] eyes," and obstructed justice.

As Fitzgerald said on the day of Libby's indictment, Libby's lying and obstruction of justice had made it impossible for prosecutors to get to the bottom of the underlying subject of their investigation: Who was responsible for the leaking of the identity of Valerie Plame Wilson? Nonetheless, there is now sufficient evidence in the public record—and much more still to be discovered—so that the Congress can launch its own investigation, which can and must lead to the early impeachment of Vice President Cheney.

More New Evidence

In all the hub-bub around the trial, the news media (with the exception of a handful of diligent bloggers), has paid no attention to the documents bearing on the original Niger yellowcake claim, which have been released as trial exhibits. They provide the most extensive record so far, of the sordid pathway through which the bogus claim that Saddam Hussein was seeking uranium ore from Niger, was used to corrupt the intelligence picture in the lead-up to the Iraq War, and was inserted into the President's January 2003 State of the Union address.



The Cheney-Bush Administration justified the infamous 16 words ("The British Government has learned that Saddam Hussein recently sought significant quantities of uranium from Africa") by attributing it to the British, since the CIA and State Department had previously kept it out of U.S. proclamations. This CIA document, dated 3/11/2003, states that the CIA had also urged the British not to go with the Niger claims.

Even though the documents that have just been released provide a more comprehensive picture than that earlier provided by the Senate Select Committee on Intelligence, the paper trail is still quite limited, and contains significant gaps and contradictions. What is still to be determined—which only a competent and thorough Congressional investigation can accomplish—is: (1) Who was really behind the Niger document forgeries, which reportedly were shopped into U.S. agencies through Italian military intelligence? Who from the U.S. side (for example, Michael Ledeen, etc.) was involved? (2) What was the full scope of the parallel intelligence network being run by Cheney's office which extended into the Pentagon via the Office of Special Plans and other nests of corruption?

What Cheney and Libby obviously feared, is that Joe Wilson's revelations would expose not only the Niger yellowcake fraud, but the bigger, uglier reality that lay behind it. Which is what Congress must go after, in the process of removing Cheney from office, so as to prevent this from ever happening again.

Documentation

Here are excerpts from the court transcript of the grand jury testimony of I. Lewis Libby, presented at his trial by special prosecutor Patrick Fitzgerald. The subhead was added by EIR.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Friday, March 5, 2004

I. LEWIS LIBBY

was called as a witness and, after first being duly sworn by

the Foreperson of the Grand Jury, was examined and testified as follows:

EXAMINATION BY MR. FITZGERALD:

A: . . . In—as we started to go through the week of July 7, after the Wilson report, the Vice President thought it was very important that the NI—what was in the NIE become known publicly . . . the Vice President instructed me to go talk to Judy Miller, to lay this out for her. And I said, that’s a problem, Mr. Vice President, because the NIE is a classified document. And the Vice President said that he would talk to the President and get the President’s approval for us to use the document. . . .

Q: Does that indicate a meeting between you, the Vice President and Stephen Hadley?

A: Yes, sir. . . .

Q: And the next line?

A: Says—this is Steve Hadley saying, no question, it’s better if we leak the NIE.

Q: What does that mean?

A: Steve Hadley is saying that it would be better if we got the NIE out, and “leak” means telling it to—giving it to a reporter to say, you know, here’s something you can write about. It’s like an exclusive or something like that.

Q: And had the NIE been declassified at that point?

A: It had in the sense that the President had told me to go out and use it with Judith Miller. I don’t, I don’t know that Mr. Hadley knew that at that point. . . .

Q:—did you tell Mr. Hadley at the time that you had already in effect leaked the NIE by—with the President’s approval by telling—Judith Miller?

A: I—yeah, I don’t know if it’s leaking once it’s declassified and you’re told to do it. I had talked to Judith Miller about the NIE at the President’s, you know, at, at the President’s approval relayed to me through the Vice President, and I did not tell Mr. Hadley at that time.

Q: And was there any reason why you didn’t tell Mr. Hadley that you had told Ms. Miller about the NIE?

A: I was sitting with the Vice President. The Vice President knew it and chose not to tell Mr. Hadley and so I didn’t change what he had done.

Wednesday, March 24

Q: Do you know if you spoke to the *Wall Street Journal* prior to July 18th about the NIE contents before the July 18th date came around and made the NIE publicly available?

A: I did not.

Q: Do you know who did?

A: Secretary [Paul] Wolfowitz did . . . the week, you know, after July 14, in that week, the Vice President thought we should still try and get the fact of that document out. And so he asked me to talk to the *Wall Street Journal*. We discussed the possibility of talking to the *Wall Street Journal*, to get that out. I don’t have as good a relationship with the *Wall Street Journal* as Secretary Wolfowitz did, and so we talked to Secretary Wolfowitz about—I talked to Secretary Wolfowitz about trying to get that point across, and he undertook to do so. . . .

Q: And so as a result of that conversation you understand that the contents of the NIE were shared with the *Wall Street Journal* the day before they became publicly available, on July 18th. Correct?

A: Yes, sir.

Q: Now, did there come a time when there was a lunch hosted by the Vice President with conservative columnists?

A: Yes, sir.

Q: And was that on July 17th? On July 18th?

A: One of those two days. Yes, sir.

Q: And was that in part an effort by the Vice President to sort of get the story out more, more fully in light of his frustration that Director Tenet’s statement hadn’t been as complete as he would like?

A: I think it was an attempt to get the story out more fully about many issues, including the full statement on what we understood about the NIE. . . .

Q: And during that luncheon with these columnists, do you recall if there was discussion about Mr. Wilson?

A: I think there probably was, sir.

The Coverup

Q: Did you bring it—did you—in late September and early October did you at all bring to Vice President Cheney’s attention, by the way, you should know that I did speak to Cooper, the author of the *Time* magazine article, and we discussed Wilson’s wife. And I spoke to a *Washington Post* reporter and discussed Wilson’s wife. And I talked to Judith Miller and discussed Wilson’s wife. Did you have any conversation where you relayed that information to the Vice President?

A: I think I did. Let me bring you back to that period. I think I did in that there was a conversation I had with the Vice President when all this started coming out and it was this issue as to, you know, who spoke to [Robert] Novak. . . . I went to the Vice President and said, you know, I was not the person who talked to Novak. And he something like, “I know that.” And I said, you know, “I learned this from Tim Russert.” And he sort of tilted his head to the side a little bit and then I may

have in that conversation said, I talked to other—I talked to people about it on the weekend. I don't, I don't remember. . . .

Q: And as best you can recall, you told him that you did not speak to Novak, but that you did speak to Cooper about this issue, but that you had learned the information from Mr. Russert?

A: I think what I told him was I was not the source of the leak to Mr. Novak. That I, that I in fact had heard it from Mr. Russert and that he had told me all—you know, lots of reporters, all the reporters knew about it. And I don't know if I then went on to tell him that I had discussed it with the reporters in—over the, over the July 12th weekend or not. I can't remember.

Q: And you said he tilted your [sic] head. What did you understand—tilted his head, not your head. What did you understand from his gesture or reaction in tilting his head?

A: That the Tim Russert part caught his attention. you know, that he—he reacted as if he didn't know about the Tim Russert thing or he was rehearsing it, or reconsidering it or something like that.

Q: And, and—

A: New, new sort of information. Not something he had been thinking about.

Q: And did he at any time tell you, “Well, you didn't learn it from Tim Russert, you learned it from me? Remember, back in June you and I talked about the wife working—”

A: No.

Q: “—at the CIA?”

A: No. . . .

Q: And were you aware that the President gave a speech in Chicago on October—on or about October 1 saying there's no White House involvement in any leaks whatsoever that he's aware of?

A: Yes, sir.

Q: Were you at all concerned that while the President was stating that there's no White House involvement in any leaks whatsoever, that you were one of the people who may have been referred to in the *Washington Post* column that two officials calling six reporters, that you had spoken to one of the *Time* magazine reporters who indicated they had been told about Wilson's wife and may have done so before July 14th?

A: I was concerned to make sure that the Vice President knew so he could decide what he wanted to do with it, and so I went and told the Vice President that I was not the source of the leak for the Novak column. And as I say, I may have I talked about the other stuff. I'm not sure.

Q: And you were very precise to tell him you weren't the

source of the Novak column. Were you as precise in letting him know that you could have been the source for these other columns?

A: I don't recall. What I—as I said, I'm not sure if I told him about those others at that point. I think that I may have but I don't recall as to what I told him that part. What I recall is he sort of said, you know, “You don't have to tell me, I know that you were not the leak—you were not the source of the leak.”

Q: Did you think it was something that the Vice President and the President would want to know that if an official in the White House had spoken to those reporters which are now being discussed as leaks, that they learned who the person was that spoke with them prior, prior to July 14th?

A: I would have been happy to unburden myself of it, about all of this, and I went to the Vice President and offered to tell him everything I knew, and he didn't want to hear it, and I assumed that I should not go into it. . . .

Q: And when was this conversation with, with Vice President Cheney when he told you, you didn't need to tell him anything?

A: There are actually two, and I don't recall exactly. . . . I went at it once, and then I went at it again later to be I sure that he wanted me to tell him anything. And he wanted—you know, my, my clear sense was he did not want me to go on so I did not go on.

Q: And what was it that led you to go back a second time that made you want to make sure that he knew that you were willing to tell him everything?

A: It was still out there, and there was still talk about it. I had a second conversation with him, or maybe it's a third. . . . I went back to see him and said, you know, I told you something wrong before. It turns out that I have a note that I had heard, heard about this earlier from you and I just—you know, I didn't want to leave you with the wrong, I didn't want to leave you with the wrong statement that I heard about it from Tim Russert. In fact, I had heard about it earlier, but I had forgotten it.

Q: And what did he say?

A: He didn't say much. You know, he said something about, “From me?”, something like that, and tilted his head, something he does commonly, and that was that. . . .

Q: And did he ever indicate to you, other than saying that you don't have to tell him everything, any reason why he didn't want to know?

A: I think one of the times when I went to see him to tell him that I wouldn't be available to him, that I would be out for the day for an FBI interview, or something like that, he said, you know, “Fine,” and held up his hand, you know, “I understand,” and either said or I took from it, you know, we shouldn't talk about the details of this. . . .