

## Absurd claim reflects Bush's recklessness

by *The San Diego Union-Tribune*

President George W. Bush has pushed to expand the scope of executive authority in unprecedented and often reckless fashion. From decreeing the United States could detain anyone anywhere in the world without due process, to using "signing statements" as a policy line-item veto on major legislation, to unilaterally setting up a covert, quite possibly illegal mass surveillance system, the Bush White House's assault on convention has been relentless. Nevertheless, even by this administration's standards, the recent reports that Vice President Dick Cheney essentially considers his office to be a fourth branch of government, accountable to no one, are astounding.

For four years, Cheney has defied an executive order - issued by Bush himself - requiring that executive branch agencies demonstrate they are handling classified information with proper security and care. Cheney contends that because he also nominally serves as president of the Senate, his office is not part of the executive branch. But, of course, Cheney also contends he is not part of the legislative branch and thus not subject to congressional oversight. In other words, the vice president is above the law.

This line of legal reasoning is so attenuated, so at odds with constitutional provisions requiring separation of powers and checks and balances, it would get an F-minus at the worst law school in America.

But, of course, Cheney (and Bush) know this. This was reflected in the White House's quick declaration that it not only agreed with Cheney that the vice president wasn't accountable to anyone, but that the White House was also exempt from the president's own directions to the executive branch. Bush, Cheney and their staffs are making it up as they go along. They simply don't care about the legal niceties.

Yet there may be other factors at play here beyond a determination to expand executive power. The vice president cooperated with requests that his office demonstrate it handled classified data properly in 2001 and 2002.

What happened in 2003 that might have prompted Cheney to escalate the walls of secrecy around his office? Many things. The leaking of information on CIA analyst Valeria Plame, which led to a prison term for Lewis "Scooter" Libby, Cheney's chief of staff. The emergence of allegations that the White House had manipulated intelligence reports to build support for the invasion of Iraq. The escalation of battles between Cheney and Attorney General John Ashcroft over the legality of the mass surveillance program.

The upshot: Cheney may well have sought more secrecy not just on (misguided) principle but to prevent damaging revelations. The combination of more power and less accountability encourages just such confusion between the national interest and self-interest.

Which, of course, is precisely why the Founding Fathers set up a federal government with authority divided among the White House, Congress and the courts. They knew the perils of concentrated power. Now we are learning this old lesson anew.

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