

# AT ABOUT THE TIME HE SUBPOENAED JUDY MILLER, PATRICK FITZGERALD INTERVIEWED CHENEY A SECOND TIME

When I recover a bit more from having finished Dick Cheney's infernal tome, I will have more to say about it.

But I wanted to point to this piece of news in it that no one has yet noted:

I participated in two lengthy sessions with the special counsel. The first was in my West Wing office in May 2004. The second was in Jackson Hole Wyoming, in August 2004. The second session was conducted under oath so that my testimony could be submitted to the grand jury.(408)

That is, Patrick Fitzgerald interviewed Cheney not just the one time we knew about—on May 8, 2004. But he also interviewed Cheney sometime during August 2004 (at least according to Cheney), apparently in anticipation of submitting that testimony to the grand jury.

The timing of this is pretty telling.

On August 12, 2004, Fitzgerald subpoenaed Judy Miller to testify. And on August 27, 2004, he wrote an affidavit justifying his subpoena, focusing closely on Scooter Libby's claims that he had been ordered by Dick Cheney to leak material to Miller. And we know from Cheney's first interview that he hung Libby out to dry, denying any knowledge of such things.

The Vice President does not recall any member of his staff, including Scooter

Libby, meeting with New York Times reporter Judith Miller during the week of 7/7/03, just after publication of Joe Wilson's editorial in the New York Times.

[snip]

The Vice President advised that no one ever told him of a desire to share key judgments of the NIE with a news reporter prior to the NIEs declassification on 7/18/03.

[snip]

The Vice President cannot specifically recall having a conversation with Scooter Libby during which Libby advised the Vice President that he wanted to share with the key judgments of the NIE with Judith Miller. Although if it did occur, he would have advised Libby only to use something if it was declassified. He believed Libby would have told him about any attempts to put something out to the media prior to its declassification and the Vice President cannot recall such a discussion.

When asked if he ever had a conversation with Scooter Libby wherein Libby informed the Vice President that certain material within the NIE needed to be declassified before it could be shared externally, Vice President Cheney advised he does not recall.

To a large degree, Cheney's first answers—assuming they remained substantively the same in the second interview—necessitated Judy Miller's testimony, since Libby had clear notes about being ordered to leak material to Miller that had been effectively hidden by his lies about Russert. Libby's notes made it appear like he might have leaked Plame's identity to Miller (which turned out to be the case). And Cheney's refusal to claim he had authorized that leak put

Libby at real risk of an IIPA indictment.

This interview raises a few more questions. First, in his first interview, Cheney did not release the journalists he had spoken with from their pledge of confidentiality. Bob Novak testified on September 14, 2004; though Fitzgerald's affidavit makes it clear much of that discussion was about his conversation with Richard Armitage, Novak spoke with someone at OVP on July 7, 2003, so it has always been possible he was hiding a Cheney conversation.

In addition, Judy Miller explained away the "Aspens connected at the roots" comment by relating a chance encounter with Libby in Jackson Hole in August 2003 (not 2004). Though when I asked her if she had seen Cheney on that same trip, she did not answer. Is it possible the reference to Jackson Hole was a coded reference to Cheney?

Finally—and critically importantly—when CREW FOIAed this interview, they asked for "all transcripts, reports, notes and other documents relating to any interviews outside the presence of the grand jury of Vice President Richard B. Cheney that are part of Special Counsel Patrick Fitzgerald's investigation into the leak of the identity of Valerie Plame Wilson." In other words, this second interview would have been squarely within the terms of their request. This interview should have been released under their FOIA, but was not.

This previously unreported Cheney interview would appear to go right to the heart of why Patrick Fitzgerald subpoenaed Judy Miller to find out whether Scooter Libby leaked Valerie Plame's identity to her. And for some reason, it appears the Bush and Obama DOJ didn't want us to read it.