

# DICK AND ED AND THE NH PHONE-JAMMING

Now that we know that Dick Cheney's lawyer was working DOJ to make sure that James Tobin would not be indicted until after the 2004 election, it's probably worth returning to another few aspects of this story that involve the White House.

First, recall that the RNC paid for Tobin's legal bills—to the tune of \$3 million, most of that to Cheney's lawyer's firm.

The Republican National Committee, in turn, has paid \$3 million in legal fees in criminal and civil cases growing out of the controversy. The RNC has paid at least \$2.8 million to Williams & Connolly and other firms for Tobin's defense, and about \$150,000 to Covington & Burling to defend the RNC in a civil suit brought by the New Hampshire Democratic Party.

The RNC's legal fees exceed the \$2.4 million spent by Sununu, the winner of the U.S. Senate race.

Also recall that the NH GOP was on the phone with the White House just as the phone-jamming scandal was blowing up in its face.

Most tantalizingly to Democrats, evidence filed in Tobin's trial in December shows 22 phone calls from Tobin to the White House between 11:20 a.m. Election Day, two hours after the phone jamming was shut down, and 2:17 a.m. the next day, four hours after the outcome of the election was announced.

Obviously, both details would seem to point to direct White House involvement. But conveniently for the White House, Ed Gillespie hid the White House's direct involvement by claiming he made

the decision to have the RNC pay Tobin's bills.

Former RNC chairman Ed Gillespie decided to pay Tobin's legal fees. "He was accused of doing something in his capacity as an RNC consultant, and we believed him to be innocent," Gillespie said. While the RNC had no contractual obligation, "it's the custom, not written anywhere, that you covered your people," Gillespie said.

Gillespie said he informed the White House, but did not seek formal approval, before authorizing the payments. Mehlman said that under his chairmanship, consulting contracts now explicitly declare that independent contractors must be prepared to pay their own legal costs in civil and criminal cases.

Though, the New Hampshire Union Leader (from their paid archives; story date is May 19, 2006) notes that Gillespie's story about whether he informed the White House before or after he authorized the payments changed a bit.

The former Chairman of the Republican National Committee remembers telling someone at the White House that he had decided to have the RNC pay the legal defense bills for convicted phone-jamming conspirator James Tobin, but he can't remember who.

Ed Gillespie told the New Hampshire Union Leader yesterday he informed the White House after he decided to authorize payment.

The Washington Post reported on Wednesday that **Gillespie** told its reporter that he had "informed the White House, without seeking formal approval, before authorizing the payments."

**Gillespie** told the Union Leader the two accounts were "consistent" because he

decided to authorize the payments before telling the White House and actually authorized the payments after telling the White House.

[snip]

**Gillespie** yesterday told the Union Leader he could not remember who at the White House he informed of his decision to pick up Tobin's legal bills. "I'm not going to guess," he said. "It was years ago, but as a matter of routine, I would have told somebody over there."

If someone at the White House had expressed displeasure with his decision, **Gillespie** said, "It was too late. I had made the decision and they were not involved in it."

Gillespie's story stank, long before the news that Cheney's own lawyer was involved in the defense, and long before Gillespie got brought in to replace Dan Bartlett and Karl Rove in the era of exploding scandals. But now that we know Cheney's lawyer was involved, it gets stinkier.

One thing that's unclear is when Gillespie made this decision—in 2002 or 2004? In 2002, Gillespie was working for Liddy Dole. Gillespie was appointed RNC chair in July 2003 (and served until January 2005). So if he made the decision to pay for Tobin's defense while Chair (a reasonable assumption), then it may well have been in 2004, just as the election season was heating up. In other words, this conversation that Gillespie conveniently can't remember? It may well have been a discussion held during the campaign to pay Dick's personal lawyer (and friends) to postpone the indictment until after the election.

Finally, there's this tidbit from McClatchy's story.

On Oct. 1, 2004, Hinnen got the green light to prepare an indictment, but was

directed to first give Tobin lawyer O'Donnell a chance to make his client's case. O'Donnell requested delays and then told Hinnen, Parsky and other senior officials that **an unidentified lawyer had advised Tobin that the jamming was legal.** [my emphasis]

I irresponsibly speculated that this unidentified lawyer is Ben Ginsberg, who was Bush-Cheney's outside Counsel in 2000 and 2004—until he had to step down in 2004 when it was revealed he was working for the Swift Boaters at the same time as he was advising Bush-Cheney, which amounts to illegal coordination between the two campaigns. He also regularly represents the RNC and the NRSC (remember, the election in question was the Sununu Senate election). In short, Ginsberg is both the kind of guy who is happy to straddle between official campaigns and dirty tricksters, as he did in 2004. And he's a man with a proven appreciation for dirty tricks. Then again, perhaps the person who approved the program was in the White House—though that would be astonishing even for the Bush thugs.

So imagine, if you will, that either Ben Ginsberg or someone very like him had given Tobin the legal green light to do the phone jamming. It would sure change the implications of that \$3 million legal defense the RNC bought Tobin. Not only would that \$3 million be an attempt to protect whomever it was at the White House involved in the scandal. But it would protect the decision-makers who approved of the phone jamming ahead of time—people who likely were and are central figures in RNC circles.

John Conyers is calling on DOJ to start answering some questions about this investigation. Which may well implicate top Republicans faster than the USA Purge, not least because it goes through the RNC to get to the White House.