

# WHAT THEY DIDN'T WANT MCDEVITT TO TALK ABOUT...

Man, the documents released in the Oversight Document Dump will really make you queasy. They include:

- Committee Report
- McDevitt's Interrogatory
- Additional Documents

Here's a post on why the documents are astounding, wrt the Plame investigation. And here's my liveblog on there hearing.

In the hearing there was quite a spat over whether Waxman could introduce the interrogatory above into the record (led by the inimitable Darrel Issa). In spite of the fact that they had spent an hour and the half on the phone with McDevitt, Republicans complained that they hadn't had a chance to cross-examine him.

Here's Tom Davis' complaint about Waxman's motion to enter the interrogatories.

McDevitt responded to interrogatories, he replied with 25 pages of answers. We spoke with McDevitt on Sunday afternoon. Reluctant to give testimony on the record. Our staff made it clear we want to examine him on the record. Personal investment in various technologies. We remain skeptical of the content of his interrogatories.

But Waxman pointed out that the reason McDevitt was unwilling to testify was because the White House had very sharply limited his testimony.

Waxman: Jan 30, McDevitt, scheduled interview, WH contacted him, told him not to discuss with the committee. McDevitt emailed, based on WH, there's

practically nothing I'm authorized to discuss. Given limitations placed by WH Counsel, he said it didn't make sense to come in for interview. Majority and Minority sent him questions. He responded in writing. WH had chance to review those answers, cleared them without redactions. AFTER they got the answers, minority wanted to speak with him in person. Majority went to some length to accommodate them. Sunday night, Minority and Majority called to see whether he would come in for deposition. Answered 1.5 hours of questions from Minority. Minority now says it's unfair to use any information bc they didn't get oppty to question him. If Minority has a beef with anyone, it should be WH Counsel's office.

In other words, Fred Fielding tried his damndest to prevent McDevitt from giving detailed testimony.

Which is why the areas of his interrogatory that hint at what the White House doesn't want him to testify about are so interesting. McDevitt begins to get squirrely about answering questions when they ask him about meetings he had with Harriet Miers.

27. The Committee understands that you and John Straub met with White House Counsel Harriet Miers to discuss issues related to e-mail preservation. Did you discuss your analysis at this meeting? Please describe when this meeting occurred, the agenda for the meeting, and your recollection of what was discussed.

I participated in a number of meetings in December 2005 and January and February 2006. Some of these meetings included White House Counsel Harriet Miers and members of her staff. These

meetings also included other White House management and OA Counsel staff. Given the nature of these discussions, I will defer to the current White House staff to characterize these meetings.

Now McDevitt said in arranging testimony that he couldn't say what needed to be said given the limitations the White House made on his testimony. While I understand the contents of meetings with Miers (and I'm wondering who those other "White House management" types were—Chief of Staff Andy Card?) might be considered deliberative, I do wonder what was said at those meetings—not least because the topic of turning over evidence to Patrick Fitzgerald had to have been an issue of discussion in November 2005.

What about those Plame-related missing emails?

Which makes McDevitt's involvement in the recovery of those emails rather interesting. He was part of the team that originally tried to restore the emails.

This plan was prepared by the OCIO staff and presented to White House Counsel. I do not recall the specific details of this plan. A number of the activities identified in the plan were undertaken and to the best of my recollection, the email from the period in question was never recovered. I worked with OA Counsel and White House Counsel on efforts to provide an explanation to the Special Prosecutor. This included providing a briefing to the Special Prosecutor's staff on this subject.

As part of this search, McDevitt was party to an email exchange describing how to recover the emails.

The Committee was provided with an e-mail exchange between you and Susan Crippen, with copies to Jaime Borrego and Wiltiam Reynolds that attached an

\*Exchange MST Activity Plan" dated November 28, 2005 and updated on January 20, 2006. The attached plan states: "The following outlines the planned activities to recover Office of Vice President e-mail from the target period of September 30, 2003 to October 6, 2003." Was this search relevant to the Special Prosecutor's investigation? Why was this period targeted? What was the role of each of the individuals on this e-mail with regard to the activity plan?

Yes, the attempt to recover these email was in response to the search associated with the Special Prosecutor's investigation.

That email exchange made it clear that the recovery of the OVP emails was inadequate.

According to this document, even after restoring backup tapes, the White House team was unable to find any journal files or .pst files for the Vice President's office during this period. The team's first effort involved restoring from the backup tape of the file servers that were used to store .pst files during the target period." This search uncovered "no messages ... that filled the gap." The team next restored from the backup tape the "server that contained the journal mailboxes for the target period." According to the document, the "Journal mailboxes were examined and no messages for the target period were present in the journal mailbox."<sup>83</sup> The team then restored from the backup tape the personal mailboxes of officials in the Vice President's office and recovered messages from 70 individual users.

McDevitt reveals that he was not involved in what he calls a "parallel" attempt to restore the OVP emails.

There was a parallel effort to attempt to recover all email from this period. The results of this effort were the 250 pages of email. However, I was not directly involved in this process and am unable to provide any details relating to the 250 pages of email.

Which is curious, because a document describing the results of that search—the one that supposedly fulfilled the Fitzgerald requests for email during the period when OVP was covering up their leak of Valerie Plame's identity—was shown to the Committee, but not given to them.

According to a document dated just four days later that was shown to Committee staff, but not provided to them, the White House team recovered 17,956 e-mails from these individual mailboxes on the backup tape and used these as their basis to search for e-mails responsive to the Special Counsel's request.

It sure makes you wonder whether McDevitt has more to say about the search for missing White House emails? Besides the fact that the search cannot be considered comprehensive.

And just as a reminder, the emails that were turned over were printed off of David Addington's computer.

Don't tell the National Archives about our missing emails!

The White House also clearly gagged McDevitt to prevent him to reveal to the National Archives the extent of the missing emails.

30, Did the White House ever inform the National Archives of the results of your analysis? If so, when was this done? If not, did you or any others recommend that this be done?

During my employment with the EOP, I do not recall if anyone at NARA was

informed about these issues. Sometime during the Summer of 2006, I was directed by the CIO that I was not allowed to discuss the potential email retention issues and the analysis that was performed by OCIO with the NARA staff. I was to inform any NARA staff who contacted me about these issues to direct all inquires about email records management to White House Counsel and White House Records Management.

During my employment at the EOP, I worked closely with NARA staff on a number of issues related to records management. I had established good working relationships with them. I received a number of inquiries from them and in each case I redirected their inquires to the White House. I was very clear to them that I was directed not to share information with them.

As this bit of timeline included in the Committee report makes clear—by gagging McDevitt, the White Houes prevented National Archives from learning about the missing emails for a year and a half!

February 2, 2006: News accounts reported that the Special Counsel investigating the outing of CIA agent Valerie Plame Wilson discovered gaps in the process by which the White House archived its e-mails.<sup>3a</sup> In response to these reports, two officials from the National Archives spoke to Jenny Brosnahan in White House Counsel's office. The Archives officials told Ms. Brosnahan that if presidential records were destroyed, "they should let the archivist know because under the PRA they are supposed to inform the Archivist before any disposal of record."

February 6, 2006: Counsel for the White House Office of Administration spoke to

the General Counsel of the National Archives. The OA Counsel told the Archives Counsel that the White House "believed that the emails existed and could be accounted for."<sup>36</sup> This does not appear to have been an accurate assertion. As discussed in part III, an internal White House analysis in 2005 had shown that there were hundreds of days in which e-mails appeared to be missing from components of the Executive Office of the President.

February 6, 2007: Officials from the National Archives met with officials from the White House's office of the Chief Information Officer to "discuss NARA's need for knowledge of OA electronic email and other electronic systems managed by OA."<sup>37</sup> According to the chronology of White House meetings developed by Archives staff, at this meeting, the White House officials gave "no indication that there is a problem with any missing emails."<sup>38</sup>

Probably not incidentally, this covered the time period when the White House decided to scrap the replacement system that McDevitt had all but implemented (which had been ready to go live on April 21, 2006).