

DOES VICE PRESIDENT PENCE BELIEVE HE HAS DECLASSIFICATION AUTHORITY?



It is, as I understand it, fairly customary for each new presidential administration to rewrite the Executive Order on classification. George W Bush didn't do so right away – he finalized his classification EO on March 23, 2003. Obama moved a bit more quickly, superseding the Bush EO with his own classification EO on December 29, 2009.

But even among the flood of Executive Orders that Trump has signed thus far in his term, I don't believe he has modified the Obama one.

That means a change made in 2003, which was retained in the Obama EO, remains in place: the inclusion of the Vice President among those who is and can name Original Classification Authorities (here's Bill Clinton's EO for comparison). Here's the language that gave Dick Cheney classification authorities:

Classification Authority. (a) The authority to classify information originally may be exercised only by:

(1) the President and, in the performance of executive duties, the Vice President;

And here's how Obama slightly tweaked that language to retain that authority for Joe Biden:

a) The authority to classify information originally may be exercised only by:

(1) the President and the Vice President;

Now, Cheney got this authority at an interesting time. That was a key time for Torture cover-up; in fact, sometime in that period, someone in the White House ordered George Tenet to make torture a Special Access Program. He was already pushing back against the CIA whistleblowers who knew the intelligence behind Iraq was crap, an effort that would lead to Scooter Libby sharing Valerie Plame's identity with Judy Miller on Cheney's orders (it remains unclear whether Cheney had Bush's permission to leak this). Yet for some reason, the new classification rules appear most closely connected with Stellar Wind (I believe this had to do with a change in whom Stellar Wind could target).

In any case, from that moment forward, the Vice President has had the authority to classify things. As you can imagine, given Cheney's role in the Plame outing, there was a heated and still publicly unresolved debate whether the Vice President also got *declassification* authorities, including of things that the President or Presidential authority had classified.

I raise this issue because more and more people have started raising questions about whether Mike Pence is sabotaging Donald Trump, especially as leaks like this come out of the White House.

President Trump told Russian officials in the Oval Office this month that firing the F.B.I. director, James B. Comey, had relieved "great pressure" on him, according to a document summarizing the meeting.

"I just fired the head of the F.B.I. He was crazy, a real nut job," Mr. Trump said, according to the document, which

was read to The New York Times by an American official. "I faced great pressure because of Russia. That's taken off."

Mr. Trump added, "I'm not under investigation."

The conversation, during a May 10 meeting – the day after he fired Mr. Comey – reinforces the notion that Mr. Trump dismissed him primarily because of the bureau's investigation into possible collusion between his campaign and Russian operatives. Mr. Trump said as much in one televised interview, but the White House has offered changing justifications for the firing.

The White House document that contained Mr. Trump's comments was based on notes taken from inside the Oval Office and has been circulated as the official account of the meeting. One official read quotations to The Times, and a second official confirmed the broad outlines of the discussion.

If Pence believes – perhaps based on knowledge personally imparted by Cheney allies – that he has the ability to declassify anything that the President can, then he can leak details of White House events with utter impunity. Having him insta-declassify things would be a fairly safe way to feed the never-ending stream of embarrassing information coming out of the White House.

Oh, sure. He'd have utterly venal motive to do so. By feeding the Trump Russian scandal, Pence would make it increasingly likely he'd become President without having to expose his regressive views to the review of voters. But there's nothing Trump could do about it so long as an EO granting Pence the same authorities that Cheney abused to great effect remains on the book.