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Bush Blocking Fitzgerald Cooperation

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By Dan Froomkin
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The White House is refusing to let special prosecutor Patrick J. Fitzgerald turn over to congressional investigators key documents from his investigation into the leak of Valerie Plame's identity as a covert CIA operative, including reports of interviews with President Bush, Vice President Cheney and five top White House aides.

House Oversight Committee Chairman Henry Waxman disclosed this morning that Fitzgerald is cooperating with the congressional investigation and had agreed to turn over the documents -- until the White House intervened.

Describing a renewed sense of urgency in the wake of former White House Press Secretary Scott McClellan's recent [assertion](#) that "five of the highest ranking officials in the administration were involved" in the public disclosure of false information about the leak, Waxman today appealed to newly installed Attorney General Michael Mukasey to overrule his White House masters and release the documents.

"I hope you will not accede to the White House objections," Waxman wrote in his [letter](#) to Mukasey. "During the Clinton Administration, your predecessor, Janet Reno, made an independent judgment and provided numerous FBI interview reports to the Committee, including reports of interviews with President Clinton, Vice President Gore, and three White House Chiefs of Staff. I have been informed that Attorney General Reno neither sought nor obtained White House consent before providing these interview records to the Committee. I believe the Justice Department should exercise the same independence in this case."

Waxman's request puts Mukasey in an unenviable spot: He can either defy the president who just appointed him, or be decried as a lickspittle like his predecessor, Alberto Gonzales. It also represents an ingenious way to learn the extent to which Bush and Cheney were involved in the criminality Fitzgerald uncovered in his investigation.

Fitzgerald investigated the leak for more than three years but ended up charging only one person: Vice presidential aide I. Lewis "Scooter" Libby, who was found guilty last year of perjury and obstruction of justice. The veteran prosecutor evidently concluded that he couldn't prove anybody else's criminal behavior beyond a reasonable doubt.

But the standard for legitimate political scandal is lower than that for a successful criminal prosecution, and the widespread belief is that Fitzgerald's investigation dug up information the Bush administration would rather keep secret.

In fact, even since Fitzgerald announced the end of his criminal investigation -- and even after Bush commuted Libby's prison sentence -- the White House, from the president on down, has refused to provide basic information about what happened, who knew about it and when.

During the Libby trial, witnesses testified that contrary to fervent White House denials, both Libby and top presidential adviser Karl Rove had indeed told reporters about Plame's identity. Fitzgerald repeatedly indicated that there had been a coordinated campaign to out Plame in an attempt to discredit her husband, an administration critic -- and that he had been hot on Cheney's trail until that line of investigation was cut off by Libby's repeated lies.

Libby's defense team initially promised to call not only their client but also Cheney to the stand, but chose not to do so at the last minute, a massive [bummer](#) for those of us who had been looking forward to Cheney and his top aide finally facing some questions they couldn't duck.

Unlike special prosecutor Kenneth Starr, who was appointed under different rules, Fitzgerald was not empowered to write a report to Congress about his investigation. And in a [letter](#) to Waxman in March, Fitzgerald declined to testify before the committee, saying that grand jury secrecy rules limited what he could say, and noting that prosecutors "traditionally refrain from commenting outside of the judicial process on the actions of persons not charged with criminal offenses."

So until this morning, it looked like whatever other secrets Fitzgerald uncovered would remain out of public sight.

But Waxman and his staff didn't take no for an answer. They just changed the question. In a July [letter](#) to Fitzgerald, also released today, Waxman requested seven categories of documents.

As Waxman writes in his letter to Mukasey: "I have been careful in my dealings with Special Counsel Fitzgerald to narrow the Committee's request to documents that would not infringe on his prosecutorial independence or intrude upon grand jury secrecy. Before the Committee requested any documents, my staff, Justice Department staff, and Mr. Fitzgerald's staff discussed the types of documents that could be properly provided to the Committee. Mr. Fitzgerald's staff agreed that the Committee's request was appropriate and has already produced a number of the requested documents relating to CIA and State Department officials and other individuals."

But that's when the White House intervened, although Waxman doesn't specify exactly who or how: "To date, however, Mr. Fitzgerald has been frustrated in his attempts to transmit documents relating to White House officials to the Committee."

The documents in question are "transcripts, reports, notes, and other documents relating to any interviews outside the presence of the grand jury" of Bush, Cheney, Rove, McClellan, former chief of staff Andrew Card, national security adviser Stephen Hadley and former communications director Dan Bartlett.

Waxman writes that Fitzgerald agreed to give those documents to the committee. "However, to date, four months after the Committee's request, he has been unable to produce these documents to the Committee because the White House has not consented to their production. "

His letter continues: "There is no legitimate basis for the withholding of these documents. Mr. Fitzgerald has apparently determined that these documents can be produced to the Committee without infringing on his prosecutorial independence or violating the rules of grand jury secrecy. As records of statements made by White House officials to federal investigators, outside the framework of presidential decision-making, the documents could not be subject to a valid claim of executive privilege.

"Moreover, there is direct precedent for the production of these records to the Committee. During the Clinton Administration, the Justice Department provided the Committee with dozens of FBI 302 reports of interviews with White House officials. No White House official -- including the President and the Vice President -- was exempted from the production."

Rove's Brain

Having studied Rove for many years now, I can claim a bit of expertise on how his brain works. My conclusion: Quite often, Rove embraces a very particular point that may technically be true -- for instance, that he didn't actually use Plame's name in his conversation with reporters, or that at one very specific moments Democrats were eager to get Bush's war-authorization vote over with -- to argue a point that is, by any normal standard, a lie.

And does it repeatedly, because he isn't brought to account.

That may finally be changing as the public focuses on Rove's recent assertion that the Democrats are to blame for the rush to war in Iraq. It's overwhelmingly, demonstrably obvious that this statement is untrue. Even some of his colleagues have said he's gone too far this time.

[Peter Baker](#) writes in Saturday's Washington Post: "Former White House aide Karl Rove said yesterday it was Congress, not President Bush, who wanted to rush a vote on the looming war in Iraq in the fall of 2002, a version of events disputed by leading congressional Democrats and even some former Rove colleagues.

"Rove said that the administration did not want lawmakers to vote on a resolution authorizing the use of force against Iraq that soon because it would 'make things move too fast,' before Bush could line up international allies, and politicize the issue ahead of midterm elections. But Democrats and some Republicans involved with the issue at the time said yesterday that Bush wanted a quick vote. . . .

"Speaking on PBS's '[Charlie Rose](#)' talk show last week, Rove said Congress pushed to have the vote before the election. . . .

"Rove repeated his assertion in an interview yesterday, pointing to comments made by Democrats in 2002 that they wanted a vote. 'For Democrats to suggest they didn't want to vote on it before the election is disingenuous,' he said. The vote schedule, he said, was set by lawmakers. 'We don't control that.'

"News accounts and transcripts at the time show Bush arguing against delay. Asked on [Sept. 13, 2002](#), about Democrats who did not want to vote until after the U.N. Security Council acted, Bush said, 'If I were running for office, I'm not sure how I'd explain to the American people -- say, "Vote for me, and, oh, by the way, on a matter of national security, I think I'm going to wait for somebody else to act." ' . . .

"Ari Fleischer, the White House press secretary at the time, said Daschle had pressed Bush over the summer to bring the matter to Congress but for consultation, not necessarily a vote. Bush decided to seek a vote authorizing force, Fleischer said. 'It was definitely the Bush administration that set it in motion and determined the timing, not the Congress,' he said. 'I think Karl in this instance just has his facts wrong.'"

Confronted on Fox News Sunday by fellow guest Rep. Chris Van Hollen (D-Md.), Rove amazingly stuck to his story. [ThinkProgress](#) has the video. [Zachary Goldfarb](#) writes in today's Washington Post that Rove said Fleischer was "not aware of and was not privileged" to all the information he needed to make the most accurate assessment.

[Dick Polman](#) blogs for the Philadelphia Inquirer that, "befitting his status as the Ministry of Truth's spinner emeritus, [Rove] persists in trying to flush history down the memory hole. In true Orwellian fashion, he has sought in recent days to rewrite the factual reality of autumn 2002, when (as those of us with cognitive empirical skills will certainly recall) the Bush team was on the march to war in Iraq and goading the Democratic Senate to get with the program as congressional elections loomed. . . .

"Actually, it's worse than that. Whereas on PBS he claimed that the Bush team hadn't tried to politicize national security in the '02 elections, he seems to have forgotten his own declaration -- in a winter '02 speech - that the Bush team would surely politicize national security in the '02 elections. Referring to the war on terror, he said on Jan. 18, 2002: 'We can also go to the country on this issue because (voters) trust the Republican party to do a better job of protecting and strengthening America's military might and thereby protecting America.'"

[Sean Carman](#) blogs for 236.com about "other things Karl Rove just remembered" including: "Watergate was invented by the liberal media as retaliation for the great success of Nixon's law and order presidency."

Memo to Obama

[Rove](#) himself, in a Financial Times op-ed, finds a new way of attacking Hillary Clinton: Ostensibly giving Barack Obama advice on how to attack Hillary Clinton.

Obama, Rove writes, should "focus on the fact that many Democrats have real doubts about Hillary. They worry she cannot win, will be a drag on the ticket and that if she got to the White House it would be a disaster."

Abramoff Watch

[Pete Yost](#) writes for the Associated Press: "The Bush administration is laying out a new secrecy defense in an effort to end a court battle about the White House visits of now-imprisoned lobbyist Jack Abramoff.

"The administration agreed last year to produce all responsive records about the visits 'without redactions or claims of exemption,' according to a court order.

"But in a court filing Friday night, administration lawyers said that the Secret Service has identified a category of highly sensitive documents that might contain information sought in a lawsuit about Abramoff's trips to the White House.

"The Justice Department, citing a Cold War-era court ruling, declared that the contents of the 'Sensitive Security Records' cannot be publicly revealed even though they could show whether Abramoff made more visits to the White House than those already acknowledged.

"The simple act of doing so . . . would reveal sensitive information about the methods used by the Secret Service to carry out its protective function,' the Justice Department argued. . . .

"Sensitive Security Records are created in the course of conducting more extensive background checks on certain visitors to the White House. In sworn statements accompanying the filing, two Secret Service officers said the extra attention is paid to some visitors because of their background, 'the circumstances of the visits' or both. . . .

"Nearly two years ago, just after Abramoff had pleaded guilty in the influence peddling scandal, Bush [told reporters](#), 'I can't say I didn't ever meet' Abramoff, 'but I meet a lot of people.'

"I don't know him,' Bush said at the presidential news conference in January 2006. 'I've never sat down with him and had a discussion with the guy.'

"After Bush's comments, Abramoff wrote an e-mail to the national editor of Washingtonian magazine saying that Bush had seen him 'in almost a dozen settings, and joked with me about a bunch of things, including details of my kids. Perhaps he has forgotten everything, who knows.'"

Bush Will Face Press Tomorrow

In a departure from recent practice, the White House has given reporters more than two hours' notice before a Bush press conference. White House Press Secretary Dana Perino this morning announced that there will be one tomorrow at 10:10 a.m. I'll be interested to see if reporters come up with more probing, difficult-to-duck questions than usual.

What would you ask if you had the chance? Submit your suggestion as a comment to this column.

Bush v. Congress

[Michael Abramowitz](#) writes in The Washington Post: "Congress will return to Washington this week, bringing with it President Bush's favorite punching bag. Since summer, the Associated Press reports, Bush has focused 17 events on his budget-related disputes with lawmakers, most recently Saturday's [radio address](#), in which he pressed them to complete 'unfinished business' before leaving on their Christmas recess. . . .

"Bush is clearly acting as if he has the upper hand in the year-end struggle, showing no sign of compromise on his key demands. They include a 'clean' war funding bill (without timetables or restrictions on the troops), a wiretapping bill that exempts telecommunications companies from lawsuits, and no more than \$933 billion in domestic spending (\$11 billion less than what Democrats now want).

"Most observers believe Bush will eventually get what he wants on the war funding and wiretapping bills -- the only question is when."

[David Rogers](#) writes in the Wall Street Journal (subscription required) that the "best shot for Democrats is to . . . build coalitions with moderate Republicans to complete Congress's agenda before the holidays. But the bitter divisions with President Bush over the Iraq war make that more difficult.

"The more they take Bush to the woodshed on Iraq, the more difficult it is to bring over moderate Republicans,' says Neil Newhouse, a Republican pollster.

"Compounding the problem are the moods swings and often combative nature of the Democratic leadership. Republicans tend to march four abreast, even if it means heading off a political cliff as in the 1995 government shutdown; Democrats resemble a family packed into a station wagon and yelling different directions at the driver."

Bush took to the [Rose Garden](#) this morning to briefly revisit some of his more familiar talking points.

Feeding Frenzy

[Robert Pear](#) writes in the New York Times: "Business lobbyists, nervously anticipating Democratic gains in next year's elections, are racing to secure final approval for a wide range of health, safety, labor and economic rules, in the belief that they can get better deals from the Bush administration than from its successor.

"Hoping to lock in policies backed by a pro-business administration, poultry farmers are seeking an exemption for the smelly fumes produced by tons of chicken manure. Businesses are lobbying the Bush administration to roll back rules that let employees take time off for family needs and medical problems. And electric power companies are pushing the government to relax pollution-control requirements."

National Debt Watch

A reminder from [Tom Raum](#) of the Associated Press: "Like a ticking time bomb, the national debt is an explosion waiting to happen. It's expanding by about \$1.4 billion a day -- or nearly \$1 million a minute. . . .

"[T]he government is fast straining resources needed to meet interest payments on the national debt, which stands at a mind-numbing \$9.13 trillion. . . .

"[T]he interest payments keep compounding, and could in time squeeze out most other government spending -- leading to sharply higher taxes or a cut in basic services like Social Security and other government benefit programs. Or all of the above. . . .

"The national debt -- the total accumulation of annual budget deficits -- is up from \$5.7 trillion when President Bush took office in January 2001 and it will top \$10 trillion sometime right before or right

after he leaves in January 2009.

"That's \$10,000,000,000,000.00, or one digit more than an odometer-style 'national debt clock' near New York's Times Square can handle. When the privately owned automated clock was activated in 1989, the national debt was \$2.7 trillion. . . .

"Not long ago, it actually looked like the national debt could be paid off -- in full. In the late 1990s, the bipartisan Congressional Budget Office projected a surplus of a \$5.6 trillion over ten years -- and calculated the debt would be paid off as early as 2006."

Bush v. Cheney, Iraq Edition

[Massimo Calabresi](#) writes in Time about the "split that has opened up between Bush and his hard-line Veep. Since 2001, Cheney has been against just the kind of U.S. involvement in Arab-Israeli affairs that Bush is embracing, arguing that the early creation of a Palestinian state could jeopardize Israel's security. And the peace talks are part of a larger trend. In the past two years, Bush has negotiated with the North Koreans over their nuclear weapons and offered the Iranians incentives to talk about their nuclear ambitions, sometimes directly overruling Cheney and his allies in the process. Skeptics say the flurry of diplomacy is designed to distract attention from the war in Iraq. But whatever the motivation, the result is clear: if the spectrum of Republican foreign policy has Cheney and the unilateralists at one end and Bush's father George H.W. Bush and the multilateralists at the other, then W. has come home."

Calabresi adds: "To be sure, Bush isn't as good a diplomat as he thinks he is. He likes to tout two tactics: a hard-knuckle approach he credits with bringing the North Koreans to the table, and the personal rapport he claims to have developed with leaders like Russia's Vladimir Putin. Being able to look fellow leaders in the eye and call them by their first name, Bush thinks, makes it easier to put tough demands on the table. But foreign diplomats say he lacks subtlety in both approaches, forcing black-and-white decisions on adversaries and focusing on individual leaders instead of their countries' interests."

[Paul Richter](#) writes in the Los Angeles Times: "Bush has defied a diplomatic consensus reaching back decades by insisting that the United States would encourage Israelis and Palestinians and would offer ideas if asked, but wouldn't sit continuously at a negotiating table or establish positions of its own.

"The conventional approach, based on more active American prodding, simply 'hasn't worked,' Secretary of State Condoleezza Rice declared recently. In calling world leaders together for last week's conference in Annapolis, Md., the Bush administration made it clear it has its own approach.

"But the administration's insistence on a limited U.S. role is one of the reasons behind widespread skepticism about the likelihood of the talks resulting in a peace agreement and an independent Palestinian state by the end of Bush's term. Most European and Arab diplomats believe a more activist U.S. stance is essential to progress."

Bush v. Cheney, Iran Edition

[Dan Ephron, Michael Hirsh and Evan Thomas](#) write for Newsweek: "Late this summer, Secretary of Defense Robert Gates traveled to the Middle East, to Saudi Arabia, Egypt, Jordan, Kuwait and the United Arab Emirates. At each stop, high-ranking Arab officials anxiously asked him: was the United States preparing to attack Iran? Gates reassured them all that the United States had no plans to do so, at least any time soon. He wasn't dramatic about it, says a Defense Department official who accompanied Gates on the trip but declined to be identified discussing secret talks. 'He didn't grab anyone's arm and say, 'I've got Cheney under control, wink, wink',' says this official. But Gates was low-key, straightforward, steady--calming, even soothing in a dry and matter-of-fact way. A little later, at the end of September, Gates met with the Democratic Senate Policy Committee (something his predecessor, Donald Rumsfeld, would never do). One of the senators nervously asked if the Bush administration

was looking for a reason to bomb Tehran. 'It would be a strategic calamity to attack Iran at this time,' Gates replied. Sen. Evan Bayh, who was at the meeting, told Newsweek: 'You could almost feel the relief around the table. . . .

"Right now, Gates is seen as the best insurance that the Bush administration (read: Vice President Cheney) will not leave a legacy of ashes in Iran."

No word yet on why Cheney wasn't able to edit, squelch or at least further delay today's release of the national intelligence estimate that Iran is not currently moving towards a nuclear capability.

About That Signing Statement

[Charlie Savage](#) writes in the Boston Globe that Bush in November "issued his first signing statement since the Democratic takeover of Congress, reserving the right to bypass 11 provisions in a military appropriations bill under his executive powers."

The [Nov. 13 statement](#) objected to "several requirements to provide information to Congress. . .

"For example, one law Bush targeted requires him to give oversight committees notice before transferring US military equipment to United Nations peacekeepers.

"Bush also challenged a new law that limits his ability to transfer funds lawmakers approved for one purpose to start a different program, as well as a law requiring him to keep in place an existing command structure for the Navy's Pacific fleet."

Savage notes: "By referring only to objections voiced in past documents, Bush's new signing statement struck a less aggressive tone than those he issued during the years when his own party controlled Congress."

Small Ball

[Peter Baker](#) wrote on washingtonpost.com on Friday: "A senior White House official acknowledged yesterday that President Bush has little chance of passing major legislation through a hostile Congress in his last 13 months in office but will still pursue a 'very vigorous agenda' through executive action and foreign policy leadership.

"White House counselor [Ed Gillespie](#) said the death of a bipartisan immigration plan last summer convinced Bush advisers that they had to readjust their approach through the final phase of his presidency, focusing on ambitious goals on the international front while downscaling to more small-bore but achievable initiatives domestically."

It's worth noting that what killed the immigration plan was not the rise of Democrats, but the revolt by Republicans.

Climate Change Watch

[Peter Gelling and Andrew C. Revkin](#) write in the New York Times: "Thousands of government officials, industry lobbyists, environmental campaigners and observers are arriving on the Indonesian island of Bali for two weeks of talks starting Monday that are aimed at breathing new life into the troubled 15-year-old global climate treaty. . . .

"By far, the biggest obstacle to forging a new accord by 2009 is the United States, analysts say. Senior Bush administration officials say the administration will not agree to a new treaty with binding limits on emissions.

"Instead, President Bush recently proposed that the world's biggest countries work toward a common, long-term goal set decades in the future, without specific targets or limits, and more immediate goals set by individual nations using whatever means they choose. . . .

"The Bush administration is the only government in the world that is opposed to mandatory emissions reductions being included in a new treaty,' said Philip Clapp, the deputy managing director of the Pew Environment Group, based in Washington. 'The question is, will they block others from moving forward.'"

[Kim Chipman, Mathew Carr and Alex Morales](#) write for Bloomberg: "Seven years after he lost the U.S. election, Al Gore has more influence on U.S. global warming policy than the man who defeated him, President George W. Bush. . . .

"As talks on a new world emissions treaty open today on the Indonesian island of Bali, companies and investors such as General Electric Co., Chevron Corp. and Lehman Brothers Holdings Inc. are backing Gore's push for global limits on climate- changing carbon emissions, a strategy Bush opposes. . . .

"Anticipating the post-Bush diplomatic era, a shadow delegation of American business and political leaders will advocate mandatory limits."

The [New York Times](#) editorial board writes: "The days ahead will tell a lot about whether the world, and especially the United States, is prepared to do more than just talk about the problem. . . .

"As the dominant producer of heat-trapping gases, the United States cannot expect other countries to make costly investments in new ways of producing and using energy unless it acts decisively at home."

Over at NiemanWatchdog.org (where I am deputy editor) [Alden Meyer](#) of the Union of Concerned Scientists poses several simple questions about warming that the White House simply won't answer.

Cartoon Watch

[Ann Telnaes](#) on Rove's experiments with history; [Tom Toles](#) on Bush's Mid-east turnaround.

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