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Cheney in Dispute on Oversight of His Office

By [SCOTT SHANE](#)

For four years, Vice President [Dick Cheney](#) has resisted routine oversight of his office's handling of classified information, and when the office in charge of overseeing classification in the executive branch objected, the vice president's office suggested that the oversight office be shut down, according to documents released today by a Democratic congressman.

The oversight office, a unit of the [National Archives](#), appealed the issue to the Justice Department, which has not yet ruled on the matter.

The effort by Mr. Cheney to shut down the oversight office was disclosed by Representative [Henry A. Waxman](#), Democrat of California and chairman of the House Committee on Oversight and Government Reform. Mr. Waxman, who has played a leading role in the stepped-up efforts by Democrats since they took control of Congress to investigate the Bush administration, outlined the matter in an eight-page letter sent today to the vice president and posted, along with other documentation, on the committee's Web site.

Officials at the archives and the Justice Department confirmed the basic chronology of events outlined in Mr. Waxman's letter.

The letter said that after repeatedly refusing to comply with a routine annual request from the archives for data on his staff's classification of internal documents, the vice president's office in 2004 blocked an on-site inspection of records that other agencies of the executive branch regularly go through.

"I know the vice president wants to operate with unprecedented secrecy," Mr. Waxman said in an interview. "But this is absurd. This order is designed to keep classified information safe. His argument is really that he's not part of the executive branch, so he doesn't have to comply."

A spokeswoman for Mr. Cheney, Megan McGinn, said, "We're confident that we're conducting the office properly under the law." She declined to elaborate.

But other officials familiar with Mr. Cheney's view said that he and his legal adviser, David S. Addington do not believe the executive order applies to the vice president's office because it has a legislative as well as an executive status in the Constitution.

Other White House offices, including the [National Security Council](#), routinely comply with the oversight requirements, according to Mr. Waxman's office and outside experts.

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The dispute is far from the first to pit Mr. Cheney and Mr. Addington, against outsiders seeking information,

usually members of Congress or advocacy groups. Their position is generally based on strong assertions of presidential power and the importance of confidentiality, which Mr. Cheney has often argued was eroded by post-Watergate laws and a prying press.

But the National Archives is an executive branch department headed by a presidential appointee, and it is assigned to collect the data on classified documents under a presidential executive order. The archives' division that oversees classification and declassification, the Information Security Oversight Office, is an obscure part of the federal bureaucracy.

Mr. Waxman asserted both in his letter and the interview that Mr. Cheney's office should take the efforts of the National Archives especially seriously because it has had problems protecting secrets.

He noted that the vice president's former chief of staff, [I. Lewis Libby Jr.](#), was convicted of perjury and obstruction of justice for lying to a grand jury and the [F.B.I.](#) during an investigation of the leak of classified information — the secret status of [Valerie Wilson](#), the wife of a Bush administration critic, as an undercover [Central Intelligence Agency](#) officer.

He added that in May 2006 a former aide in Mr. Cheney's office, Leandro Aragoncillo, pleaded guilty to passing classified information to plotters trying to overthrow the president of the Philippines.

"Your office may have the worst record in the executive branch for safeguarding classified information," Mr. Waxman wrote to Mr. Cheney.

In the tradition of Washington's semantic dust-ups, this one might be described as a fight over what an "entity" is. The executive order, last updated in 2003 and currently under revision, states that it applies to any "entity within the executive branch that comes into the possession of classified information."

J. William Leonard, the head of the Information Security Oversight Office, has argued in a series of letters to Mr. Addington that the vice president's office is indeed such an entity. He noted that previous vice presidents have complied with the request for data on documents classified and declassified, and that Mr. Cheney did so in 2001 and 2002.

But starting in 2003, the vice president's office began refusing to supply the information. In 2004, it blocked an on-site inspection by Mr. Leonard's office, routinely carried out across the government and intended to check whether documents were being properly labeled and safely stored.

Mr. Addington did not reply in writing to Mr. Leonard's letters, according to officials familiar with their exchanges. But Mr. Addington stated in conversations that the vice president's office was not an "entity within the executive branch" because, under the Constitution, the vice president also plays a role in the legislative branch, as president of the Senate, able to cast a vote in the event of a tie.

Mr. Waxman rejected that argument. "He doesn't have classified information because of his legislative function," Mr. Waxman said of Mr. Cheney. "It's because of his executive function."

Mr. Cheney's general resistance to complying with the oversight request was first reported last year by The Chicago Tribune.

In January, Mr. Leonard wrote to Attorney General [Alberto R. Gonzales](#) asking that he resolve the question. A Justice Department spokesman, Erik Ablin, said tonight, "This matter is currently under review in the department."

Whatever the ultimate ruling, according to Mr. Waxman's letter, the vice president's office has already carried out "possible retaliation" against the Information Security Oversight Office.

As part of an inter-agency review of Executive Order 12958, Mr. Cheney's office proposed eliminating appeals to the attorney general — precisely the avenue Mr. Leonard was taking. According to Mr. Waxman's investigation, the vice president's staff also proposed abolishing altogether the Information Security Oversight Office.

The inter-agency group working on revising the executive order has rejected those proposals, according to Mr. Waxman. Ms. McGinn, Mr. Cheney's spokeswoman, declined to comment.

Mr. Cheney's penchant for secrecy has long been a striking feature of the Bush administration, beginning with his fight to keep confidential the identities of the energy industry officials who advised his task force on national energy policy in 2001. Mr. Cheney took that dispute to the Supreme Court and won.

The vice president's office has stopped providing information for the "Plum Book," a Congressional publication listing federal political appointees. It has asserted "exclusive control" over Secret Service records of visitors to Mr. Cheney's residence, preventing their disclosure under the Freedom of Information Act.

Steven Aftergood, who tracks government secrecy at the Federation of American Scientists and last year filed a complaint with the Information Security Oversight Office about Mr. Cheney's noncompliance, called the situation "astonishing."

"This illustrates just how far the vice president will go to evade external oversight," Mr. Aftergood said.

But David B. Rivkin, a Washington lawyer who served in Justice Department and White House posts in earlier Republican administrations, said Mr. Cheney had a valid point about the unusual status of the office he holds.

"The office of the vice president really is unique," Mr. Rivkin said. "It's not an agency. It's an extension of the vice president himself."

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