

Fitzgerald Puts Cheney in the Middle of Plame Leak Coverup

by Edward Spannaus

In a memorandum submitted to a Federal judge on May 25, preparatory to the sentencing of Dick Cheney's former chief of staff Scooter Libby on June 5 for perjury and obstruction of justice, special counsel Patrick Fitzgerald makes it absolutely clear that he was investigating the Vice President's central role in the leak of Valerie Plame Wilson's CIA affiliation. Fitzgerald also indicates that Cheney himself may have been the prime beneficiary of Libby's obstruction of the special counsel's investigation. It was the obstruction carried out by Libby, and implicitly by Cheney, that prevented Fitzgerald from getting at the full truth of how the Plame leak came about, and who was responsible for it.

In the course of recommending a 30-37-month term of imprisonment for Libby, Fitzgerald blows apart the arguments being made by Libby's supporters, especially 1) that Valerie Plame was not a covert agent within the meaning of the Intelligence Identities Protection Act, so there was no crime committed; and 2) that since Fitzgerald was unable to prosecute anyone for the Plame leak itself, he was just carrying out a political vendetta against Libby for obstructing an investigation that was bogus to begin with.

By underscoring the seriousness of the leak of Plame's identity—which was done in an attempt to discredit her husband, former Amb. Joseph Wilson, for exposing the Administration's fraudulent claim that Saddam Hussein had attempted to obtain uranium from Africa—and Cheney's probable role in the leak and subsequent obstruction of justice, Fitzgerald has provided Congress with a road map on how to proceed in its own investigation. If competently pursued, this would lead quickly to the initiation of impeachment proceedings against Vice President Cheney.

Valerie Plame Wilson Was Covert

As part of his documentation to justify his sentencing recommendations, Fitzgerald cuts through the clouds of obfuscation generated by Libby's defenders, by releasing once-secret information proving that Valerie Plame Wilson was, at the time of her exposure, a covert CIA officer whose status was covered by the Intelligence Identities Protection Act.

Libby's defenders, including likely GOP Presidential candidate and former Sen. Fred Thompson, and former Justice Department official Victoria Toensing, still continue to claim that Mrs. Wilson was "not a 'covered person' under the statute," and that there was no violation of the law when her identity was revealed. Therefore, they conclude, Fitzgerald's prosecution of Libby was just a political witch-hunt.

Fitzgerald cuts this argument to shreds in his memorandum, and he shows that—even though the court excluded evidence of Mrs. Wilson's CIA status from being presented to the jury at Libby's trial—such evidence *must* be taken into account in determining Libby's sentence. In judging the gravity of Libby's obstruction of justice, he argues, the court must consider the nature of the investigation which Libby obstructed and thus prevented from being completed.

In an "Unclassified Summary of Valerie Plame Wilson's CIA Employment and Cover History," filed as Exhibit A of the government's memorandum on sentencing guidelines applicable to Libby, the CIA acknowledges:

- that Valerie Wilson was "an operations officer in the Directorate of Operations (DO) ... assigned to the Counterproliferation Division (CPD) at CIA Headquarters, where she served as the chief of a CPD component with responsibility for weapons proliferation issues related to Iraq."
- that Mrs. Wilson travelled overseas, "at least seven times to more than ten countries," while she was assigned to CPD. "When travelling overseas, Ms. Wilson always travelled under a cover identity—sometimes in true name and sometimes in alias—but always using cover—whether official or non-official cover (NOC)—with no ostensible relationship to the CIA."
- that as a result of the leak of her identity, "the CIA lifted Ms. Wilson's cover," and subsequently "rolled back her cover effective 14 July 2003, the date of the leak," and eventually declassified it back to Jan. 1, 2002.

'Lives Are at Stake...'

Fitzgerald also emphasizes that, in addition to the Intelligence Identities Protection Act, the FBI and the grand jury were also investigating violations of the Espionage Act, which pertains to improper disclosure of national defense in-

formation, and that Libby knew this full well, when he lied to FBI investigators and the grand jury.

Fitzgerald includes, as an official record, the transcript of a March 16 hearing of the House Committee on Oversight and Government Reform on the Plame leak, an event which was ridiculed at the time by news media such as the *Washington Post*. In his opening statement, which had been cleared by the Director of National Intelligence and by the CIA, Committee chairman Rep. Henry Waxman (D-Calif.) noted that, “Some have suggested that Ms. Wilson did not have a sensitive position with the CIA or a position of unusual risk.” In fact, Waxman’s pre-cleared statement disclosed that Mrs. Wilson was undercover, that “she worked on the prevention of the development and use of weapons of mass destruction against the United States,” and that she “faced significant risks to her personal safety and life.”

In her own testimony at that hearing, Mrs. Wilson stated that breaches of security such as the leak of her identity, have “jeopardized and destroyed entire networks of foreign agents. . . . Lives are literally at stake.”

Whom Fitzgerald Was Investigating

To anyone closely following the course of the special counsel’s investigation, it was clear from the beginning that Cheney was within the target zone of the inquiry. Fitzgerald had gathered every scrap of paper, and telephone and e-mail records, that he could from the White House, including the Office of the Vice President. From Team Fitzgerald’s presentation at the trial, it was clear that Libby had done nothing without Cheney’s knowledge and direction, both with respect to the leak, and with regard to the made-up story that Libby told the grand jury—which he had cleared with Cheney beforehand.

But because of Libby’s protection of Cheney, Fitzgerald apparently believed that he could not make an airtight case against Cheney without a witness—and much of what had transpired between Libby and Cheney was known only to them.

So instead, rightly or wrongly, Fitzgerald believed that he was left with only one alternative: prosecuting Libby for perjury and obstruction of his investigation. But he didn’t leave it at that. In his closing argument to the jury on Feb. 20, Fitzgerald delivered his bombshell declaration: “There is a cloud over the Vice President.” He continued, “That cloud remains there, because the defendant obstructed justice and lied about what happened.”

And now, with what he lays out in the sentencing memorandum, it is clear where Fitzgerald wanted to go, had he not been blocked from doing so.

In summarizing Libby’s conduct after the investigation of the disclosures of Plame’s identity began, Fitzgerald states: “He lied about when he learned of Ms. Wilson’s CIA employment, about how he learned of her CIA employment, about who he told of her CIA employment, and about what he said

when he disclosed it.”

One result of this, says Fitzgerald, is that Libby’s lies “made impossible an accurate evaluation of the role that Mr. Libby *and those with whom he worked* played in the disclosure of information regarding Ms. Wilson’s CIA employment and about the motivations for their actions” (emphasis added).

Fitzgerald points out that Libby learned—in fact, in the trial it was shown that he *first* learned—about Ms. Wilson’s CIA employment “directly from the Vice President.” The implication is that Cheney was smack in the middle of the conspiracy to discredit Ambassador Wilson, by their hinting to reporters that Wilson’s trip to Africa to investigate the Niger uranium claim, was actually a boondoggle organized by Wilson’s CIA wife.

Against the arguments from Libby’s lawyers and supporters, that he should have shut down the investigation of Libby (and implicitly of Cheney) once he knew that two other persons (Richard Armitage and Karl Rove) had also disclosed Mrs. Wilson’s identity to reporters, particularly to columnist Robert Novak, whose column triggered the investigation, Fitzgerald explains:

“Early in the investigation, however, the critical issue remained as to precisely what the particular officials knew about Ms. Wilson’s status and what the officials intended when they disclosed her identity to the media. Moreover, in assessing the intent of these individuals, it was necessary to determine whether there was concerted action by any combination of the officials known to have disclosed the information about Ms. Plame to the media as anonymous sources, and also whether any of those who were involved acted at the direction of others. *This was particularly important in light of Mr. Libby’s statement to the FBI that he may have discussed Ms. Wilson’s employment with reporters at the specific direction of the Vice President*” (emphasis added).

Fitzgerald also indicates that, as part of what in reality was a conspiracy to obstruct his investigation, Libby and Cheney coordinated their stories. “The evidence at trial further established that when the investigation began, Mr. Libby kept the Vice President apprised of his shifting accounts of how he claimed to have learned about Ms. Wilson’s CIA employment”—this by inventing conversations that never happened, and lying about other conversations.

And then, Fitzgerald notes ironically that Libby, who otherwise claimed to have an extremely poor memory, “claimed to have a clear memory that the only topic he did not discuss with the Vice President in the aftermath of Wilson’s [July 6, 2003 *New York Times*] Op Ed was Ms. Wilson’s CIA employment.”

Although Fitzgerald has indicated that he does not intend to pursue the matter further, there is nothing holding Congress back from conducting a full and thorough investigation of the Vice President’s impeachable offenses—and Fitzgerald has pointed in all the right directions.