

WHITEHOUSE SNIFFING AROUND BUSH'S EXECUTIVE ORDERS

Remarkably, Sheldon Whitehouse asked Mukasey very few written questions. But I am intrigued by this one.

2. Do you believe that the President may act contrary to a valid executive order? In the event he does, need he amend the executive order or provide any notice that he is acting contrary to the executive order?

ANSWER: Executive orders reflect the directives of the President. Should an executive order apply to the President and he determines that the order should be modified, the appropriate course would be for him to issue a new order or to amend the prior order.

Whitehouse, that sneaky guy, is not letting on which Executive Order he believes Bush may have violated, though it's clear that's the genesis of the question. I'd say it relates to Bush's recent executive order on torture, since that's the focus of so many questions for Mukasey. But the timing is off—Bush only signed that EO recently, so he hasn't had much time to violate it.

Furthermore, the structure of the question doesn't sound like Whitehouse is addressing torture. It's not like Bush would act contrary to the torture EO; he'd authorize actions contrary to it.

So what do you think it is? The first thing that comes to mind, for me, is EO 13292, which governs classification and declassification. Cheney has violated that EO on a number of counts. There's Cheney's claimed exemption because he's a Fourth Branch. And, of course,

someone violated it when they insta-declassified Valerie Wilson's identity the National Intelligence Estimate, though it's not clear whether Bush did or Cheney did or Libby just lied about it (again).

But again, this gets us into grammar problems. Whitehouse is talking about Bush violating his own E0. I know it's hard to keep Bush and his puppet-master straight sometimes, but Whitehouse is a pretty sharp cookie and I imagine he's up to the task. Though, there have been so many instances where the White House insta-declassified classified information to serve their propaganda needs, I still think this is a leading candidate.

In any case, I suspect Whitehouse's comment suggests two things. First, the Senator is sniffing around some instance of Bush violating his own E0 (go Whitehouse). And second, my leading bet is on Bush's rules governing classification and declassification.