

# DICK'S EVOLVING DEMANDS FOR IMMUNITY

Thanks to Faiz, who watches Rush, so I don't have to.

Once again, the Administration has trotted out Dick to lobby for ~~immunity for himself~~ telecom immunity. All the things I said last week about the inappropriateness of sending the guy who would most directly benefit from immunity out to lobby for it still hold.

So someone decided that they would get the person least willing to cooperate with Democrats, the person who single-handedly could eliminate the legal problem they allege the telecoms have, and the person who stands to benefit most from an immunity provision for telecoms, to head out to pressure Congress? And they thought this would work to persuade Democrats to put aside all the troubling legal issues to grant immunity?

But I'm interested in slight changes to Dick's spiel over the last eight days of legislative wrangling. As an aside, you'd think that some of these differences might stem from the fact that your average Heritage Foundation member has about four times the IQ of your average Rush listener, but Dick's statements to Rush are much more measured.

One thing I hadn't noticed in Dick's Heritage Foundation speech is that it already included (and was perhaps the roll-out of) the Orwellian "liability protection" in lieu of the more accurate "retroactive immunity."

Actions by Congress sometimes have unexpected consequences. But a failure to enact a permanent FISA update with

liability protections would have predictable and serious consequences.

It must have polled well, because Dick is developing into an elaborate metaphor including a dig at trial lawyers.

One of the main things we need in there, for example, is **retroactive liability protection** for the companies that have worked with us and helped us prevent further attacks against the United States –

[snip]

RUSH: The opposition in the Senate is primarily from Democrats, correct?

CHENEY: Correct. People who don't want to – I guess want to **leave open the possibility that the trial lawyers can go after a big company** that may have helped. [my emphasis]

I wonder how the ACLU and EFF feel about being labeled trial lawyers?

Now perhaps it's because Rush asked the question—whether the opposition was "primarily from Democrats"—but Dick's pitch this time around has none of the appeal to bipartisanship that his Heritage Foundation speech did.

This cause is bigger than the quarrels of party and the agendas of politicians. And if we in Washington, all of us, can only see our way clear to work together, then the outcome should not be in doubt.

That kind of makes me happy—because it suggests that BushCo recognizes that they're going to have to do more than rely on Jello Jay to roll over for them to get immunity passed.

As Faiz notes, Dick even offers a ridiculous claim that no one's civil liberties were violated.

We haven't violated anybody's civil liberties.

As with Dick's adoption of a much more partisan stance, I'm pretty happy to see Dick explicitly denying that they violated civil liberties. That suggests BushCo believes that some of Rush's listeners **do believe** this is about civil liberties. One of the things Russ Feingold noted the other day is that even his more conservative Wisconsin constituents see this clear as a matter of civil liberties (which was the point of Feingold's comments on the YouTube clip). It seems that the appeal to civil liberties is beginning to make some progress.

I also find it instructive that in the Heritage Foundation speech, Dick described precisely how the telecoms assisted the government.

Because they are believed to have aided the U.S. government in the effort to intercept international communications of al Qaeda-related individuals.

With Rush, Dick for the most part avoids mentioning what the telecoms did, instead simply saying they "helped."

... the companies that have worked with us and **helped** us prevent further attacks against the United States –

[snip]

a big company that may have **helped**. Those companies **helped** specifically at our request, and they've done yeoman duty for the country, [my emphasis]

Aren't those big telecoms such nice little helpers?!?!?! (Insert remark about hillbilly heroin here.)

In short, Dick seems to have replaced the fear-mongering he did at the Heritage Foundation for a partisan appeal. And he has very very

carefully tried to hide anything that might scare a civil libertarian.

All the more reason we ought to be hammering a civil libertarian line for the next two weeks.

One more thing. I don't know if this is a slip or not, but look at the way Dick describes the program to Rush (and this is as detailed as he gets):

It's just absolutely essential to know who in the United States is talking to Al-Qaeda.

Of course, that's not what the Administration has claimed the program is for—identifying those in the US who might **talk** to Al Qaeda. Remember, it's supposed to be for figuring out what terrorists say among themselves. Dick's description of the purpose of the program seems to violate the standards for minimization that require non-relevant conversations with US persons to be ignored and destroyed. But since we know they're wiretapping Pulitzer Prize winning journalists (in addition to Lawrence Wright, Christiane Amanpour has reportedly been tapped), and allegedly tapping lawyers representing Gitmo detainees, I guess this shouldn't surprise us.

As I said, Dick seems to be trying hard not to scare the civil libertarians. All the more reason to point out that Dick has admitted that BushCo has forgone traditional standards of minimization and simply helped themselves to the conversations of anyone they think is talking to Al Qaeda.