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Cheney 'set up illegal secret spy project'

Hidden Republican policies on terrorism threaten major distraction for Obama

By Rupert Cornwell in Washington

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Dick Cheney has stayed quiet over claims he broke the law by directly ordering the CIA to keep secrets from Congress

Former US Vice-President Dick Cheney was at the centre of a bitter new row last night, after charges he had directly ordered the CIA to keep Congress in the dark about a secret intelligence programme set up after the 9/11 attacks – an action that may have been in violation of the law.

A top Democratic senator, Leon Panetta, who took over as CIA director a month into the Obama administration, told Congress on June 24 about the eight year old project, of which Mr Panetta himself had only just been informed. He told the House And Senate intelligence committees that he had immediately scrapped the programme and that information about it had been withheld at Mr Cheney's behest.

In doing so, the Bush administration may have acted illegally, Dianne Feinstein, the chairwoman of the Senate intelligence committee said. "This is a big problem," she said, although she acknowledged the urgency of the circumstances after the attacks on New York

and Washington: "I understand the need of the day... but you weaken your case when you go outside the law."

Another top Democrat, Deputy Senate Majority Leader Dick Durbin, went further, demanding a full-scale Congressional probe into the affair. He said the executive branch should not create these types of programmes and conceal them from legislators. This was "not only inappropriate, it could be illegal," he said.

The sharp words of the two Democratic Senators came yesterday after the New York Times first reported on the programme, whose exact details still remain a mystery. According to the paper, it did not involve domestic surveillance and wiretapping, subject of a separate ongoing row between the Democratic-controlled Congress and the previous Republican White House, nor the harsh interrogation techniques, including water-boarding, used at secret CIA detention centres abroad.

The secretive and taciturn Mr Cheney was not available for comment. But according to unnamed officials quoted by the paper, the project never become operational, although planning and "some training" had intermittently taken place since 2001. It appears to have emerged amid a search for "radical countermeasures" in the traumatic immediate aftermath of 9/11. But there seems to have been no opposition within the CIA when Mr Panetta recently ordered its end.

The row threatens to be a major distraction and a new rift between the parties at the worst possible moment – just as President Obama's efforts to push through contentious legislation on energy policy, financial market reform, and above all, health care, reach a critical juncture. Yesterday Republicans leapt to the defence of their embattled former vice-president, insisting Mr Cheney and Mr Bush had the constitutional right to protect the country as they saw fit. They accused the Democrats of cooking up the affair to divert attention from their own problems on Capitol Hill, especially on health care.

Nor is the renewed spotlight on Mr Cheney the only instance of how controversies of the Bush era are dogging his successor, despite Mr Obama's insistence that the government must look forward rather than refight battles of the past.

In a potentially explosive move, Eric Holder, the Attorney General, is understood to be considering naming a prosecutor soon to investigate torture allegations against CIA operatives who carried out waterboarding and other "enhanced" methods of interrogation against detainees suspected of terrorism, techniques that may have violated international conventions against torture.

The White House has publicly come out against any legal sanctions, arguing that this would further damage morale at the CIA, and has successfully fended off action against the Bush administration officials who devised the tough interrogation policies – among whose strongest backers was Mr Cheney.

Mr Holder could thus drive an embarrassing wedge between his Justice Department and Mr Obama, a problem the former acknowledged this weekend. "I hope that whatever decision I make would not have a negative impact on the President's agenda," Mr Holder told Newsweek magazine. "But that can't be a part of my decision."

John McCain, Mr Obama's defeated opponent in 2008, also backed the president. A congressional probe into the Cheney revelations, and possible criminal action against some CIA employees were "not a good idea," the Arizona senator said on the NBC's Meet the Press yesterday.

Further washing of such dirty linen in public would merely inflict new damage on the image of the US around the world. "I agree with the President, it's time to move forwards," Mr McCain said.