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## Time to downsize the imperial vice-presidency

By: [Gene Healy](#)

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A new book by *Newsweek's* Richard Wolffe reports that President Obama is dismayed by "his vice president's indiscipline." Who can blame him? At the height of the Swine Flu panic, our excitable veep fanned the fear on NBC's Today Show, squeaking that, "If one person sneezes, it goes all the way through the aircraft!"

A month before, at a dinner with journalists, Biden apparently let slip the location of the secret bunker used by Dick Cheney after 9/11. Last week, the *Christian Science Monitor* offered this sardonic headline: "Biden Speaks at Wake Forest—does not disclose nuclear launch codes."

"Between brain and mouth there is no interlocutor," Sopranos character Hesh Rabkin once said of matriarch Livia Soprano, and so it is with Joe. Are Biden's gaffes leading the president to keep VPOTUS at arm's length? We should hope that's the case, and not just because of this particular vice president's verbal incontinence.

The modern conception of the vice-presidency—where the veep serves as chief advisor and virtual copresident—is a dramatic departure from the veep's constitutional role. Worse, it clouds responsibility and makes accountability more difficult. After eight years of Dick Cheney, the last thing America needs is another Imperial Vice Presidency.

The Constitution grants the VP no executive powers; his sole powers are legislative, presiding over the Senate and breaking tie votes. At the constitutional convention, Roger Sherman defended this arrangement, noting that "If the vice-President were not to be President of the Senate, he would be without employment."

Early vice presidents never played a Cheney-like role. Far from it: our first VP, John Adams, was also the last to attend a cabinet meeting until Woodrow Wilson's veep, Thomas R. Marshall, over 100 years later.

Even so, Marshall likened the VP experience to that of "a man in a cataleptic fit: he cannot speak... he is perfectly conscious of all that goes on, but has no part in it." Offered second billing on the Whig Party ticket in 1848, Daniel Webster cracked, "I do not propose to be buried until I am dead."

But the office's power and authority began to grow in the 1970s, with the veep getting a budget line, enhanced staffing, and increased access to the corridors of power. Fritz Mondale was the first vice-president to get a permanent office in the West Wing and status as a key adviser.

That trend reached its apogee in Dick Cheney. From 9/11 on, Cheney exercised enormous powers, running much of the War on Terror, and even, pursuant to a Bush executive order (EO 13292), directly exercising powers to classify government documents and increase executive branch secrecy.

It's ironic that Cheney, a proponent of the unitary executive, drove this trend. In *Federalist 70*, Hamilton argues that a plural executive "tends to conceal faults, and destroy responsibility." That's what happened in the Cheney vice-presidency, where Cheney was often more "in the loop" than the president himself.

Information about the administration's warrantless wiretapping program was so tightly held among the VP and his allies that in 2004 President Bush was unaware until the very last moment that the top echelon of his Justice Department was ready to resign over the illegality of the original program. When an activist VP deliberately keeps the president in the dark, it can be difficult to discern where the buck really stops.

In an insightful 2007 law review article, "Is Dick Cheney Unconstitutional?" Glenn Reynolds argues that it's constitutionally problematic for a president to, as George W. Bush did, delegate executive power to an official whose key responsibilities are legislative, and that he cannot remove from office.


Reynolds also notes that the "co-presidency" model makes it impossible for the country to get a "fresh start" when the president is impeached or forced to resign. That frustrates a key—and too rarely employed—check on executive abuses: impeachment becomes more difficult when the president's replacement is deeply implicated in the "high crimes and misdemeanors" at issue.

Joe Biden's antics are certainly amusing, but they may also be useful if they prompt the president to put some much-needed distance between himself and his potential successor. To be sure, reining in the Imperial Veep isn't as nearly good as abolishing the Imperial Presidency, but it's a start.

*Examiner columnist Gene Healy is a vice president at the Cato Institute and the author of The Cult of the Presidency.*

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