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BRIEFING ON THE DEPARTMENT OF DEFENSE INSPECTOR GENERAL'S REPORT ON THE ACTIVITIES OF THE OFFICE OF SPECIAL PLANS PRIOR TO THE WAR IN IRAQ

HEARING

BEFORE THE

COMMITTEE ON ARMED SERVICES
UNITED STATES SENATE

ONE HUNDRED TENTH CONGRESS

FIRST SESSION

FEBRUARY 9, 2007

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BRIEFING ON THE DEPARTMENT OF DEFENSE INSPECTOR GENERAL'S REPORT ON THE ACTIVITIES OF THE OFFICE OF SPECIAL PLANS PRIOR TO THE WAR IN IRAQ

FRIDAY, FEBRUARY 9, 2007

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, DC.

The committee met, pursuant to notice, at 9:34 a.m. in room SR–222, Russell Senate Office Building, Senator Carl Levin (chairman) presiding.

Committee members present: Senators Levin, Reed, Pryor, Webb, McCaskill, Warner, Inhofe, Sessions, and Chambliss.

Committee staff members present: Richard D. DeBobes, staff director; Leah C. Brewer, nominations and hearings clerk; and John H. Quirk V, security clerk.

Majority staff members present: Richard W. Fieldhouse, professional staff member; Peter K. Levine, general counsel; and Michael J. McCord, professional staff member.

Minority staff members present: William M. Caniano, professional staff member; Pablo E. Carrillo, minority investigative counsel; Derek J. Maurer, minority counsel; David M. Morriss, minority counsel; Lynn F. Rusten, professional staff member; Robert M. Soofer, professional staff member; and Sean G. Stackley, professional staff member.

Staff assistant present: David G. Collins.

Committee members' assistants present: Joseph Axelrad and Sharon L. Waxman, assistants to Senator Kennedy; Elizabeth King, assistant to Senator Reed; Elizabeth Brinkerhoff, assistant to Senator Bayh; Lauren Henry, assistant to Senator Pryor; Nichole M. Distefano, assistant to Senator McCaskill; and Clyde A. Taylor IV, assistant to Senator Chambliss.

OPENING STATEMENT OF SENATOR CARL LEVIN, CHAIRMAN

Chairman LEVIN. Good morning, everybody.

First let me welcome Tom Gimble, the acting Inspector General (IG) of the Department of Defense (DOD). Thank you for coming this morning to brief us on a matter which you have been looking into for some time.

More than 2 years ago, in October 2004, I issued a report on the alternative analysis of the Iraq-al Qaeda relationship which was prepared and disseminated by the Office of the Under Secretary of Defense for Policy under the leadership of Douglas Feith. My re-

port documented a number of actions taken by Under Secretary Feith and his staff to produce an alternative intelligence analysis of the alleged relationship between Iraq and al Qaeda in order to help make the case to go to war against Iraq.

My report concluded the following back in 2004, "An alternative intelligence assessment process was established in the Office of Under Secretary for Policy, Douglas Feith, that was predisposed to find a significant relationship between Iraq and al Qaeda. His staff then conducted its own review of raw intelligence reports, including reporting of dubious quality or reliability. Drawing upon both reliable and unreliable reporting, they arrived at an 'alternative' interpretation of the Iraq-al Qaeda relationship that was much stronger than that assessed by the Intelligence Community and more in accord with the policy views of senior officials in the administration."

For example, the Feith office promoted the view that a meeting allegedly took place in Prague in April 2001—5 months before September 11—between the lead September 11 hijacker, Mohammed Atta, and an Iraqi intelligence officer. The Feith office took the position that this alleged meeting was 'key' evidence of Iraqi involvement in the September 11 attacks, despite the fact that the Intelligence Community was skeptical that the meeting ever happened, and reported its skepticism in intelligence reports prepared for the highest officials in our Government.

This morning the DOD IG will deliver both a classified report and an unclassified executive summary on the pre-Iraqi war activities of the Under Secretary of Defense for Policy. The executive summary confirms what I alleged about the Feith office 2 years ago. The IG's report this morning states, "The Office of the Under Secretary of Defense for Policy developed, produced, and then disseminated alternative intelligence assessments on the Iraq and al Qaeda relationship which included some conclusions that were inconsistent with the consensus of the Intelligence Community to senior decisionmakers."

The IG also finds that the Office of the Under Secretary of Defense for Policy, "was inappropriately performing intelligence activities of developing, producing, and disseminating that should be performed by the Intelligence Community."

In response to some of my specific questions, the IG confirms today the following:

> One, "the Feith office produced its own intelligence analysis of the relationship between Iraq and al Qaeda and presented its analysis to other offices in the executive branch, including the Secretary of Defense and the staffs of the National Security Council and the Office of the Vice President."
>
> Two, "the intelligence analysis produced by the Feith office differed from the Intelligence Community analysis on the relationship between Iraq and al Qaeda."
>
> Three, "the Feith office presented a briefing on the Iraq-al Qaeda relationship to the White House on September 2, 2002, unbeknownst to the Director of Central Intelligence (DCI), containing information that was different from the briefing presented to the DCI, not vetted by the Intelligence Community, and that was not supported by the

> available intelligence (for example, concerning the alleged Atta meeting) without providing the Intelligence Community notice of the briefing or an opportunity to comment."
>
> Four, the briefing drew "conclusions—or 'findings'—that were not supported by the available intelligence, such as the conclusion 'intelligence indicates cooperation in all categories, mature symbiotic relationship,' or that there were multiple areas of cooperation and shared interest in and pursuit of weapons of mass destruction (WMD) and some indications of possible Iraqi coordination with al Qaeda specifically related to September 11."

The IG finds that these "inappropriate activities" of the Feith office were authorized by the Secretary of Defense, or the Deputy Secretary of Defense.

These findings of the IG reinforce the conclusion that I reached in my report more than 2 years ago, that the Office of the Under Secretary of Defense for Policy generated its own intelligence analysis, inconsistent with the views of the Intelligence Community, in order to support the policy goals of the administration.

Two recently confirmed senior administration officials have publicly expressed their concerns about these activities of the Feith office. On May 18, 2006, General Michael Hayden, now the Director of the Central Intelligence Agency (CIA), testified at his nomination hearing that he was not comfortable with the Feith office approach to intelligence analysis. Similarly, on December 5, 2006, Robert Gates, now Secretary of Defense, testified at his nomination hearing that he understands that the Feith office was producing its own intelligence analysis and, "I have a problem with that."

The IG found it unnecessary to make any recommendations in his report because changed relationships between the DOD and the Intelligence Community, in his words, "significantly reduced the opportunity for the inappropriate conduct of intelligence activities outside of intelligence channels in the future."

Unfortunately, the damage has already been done. Senior administration officials used the twisted intelligence produced by the Feith office in making the case for the Iraq war. As I concluded in my October 2004 report, "Misleading or inaccurate statements about the Iraq-al Qaeda relationship made by senior administration officials were not supported by the Intelligence Community analyses, but more closely reflected the Feith policy office views." These assessments included, among others, allegations by the President that Iraq was an ally of al Qaeda, assertions by National Security Adviser Rice and others that Iraq, "had provided training in WMD to al Qaeda," and continued representations by Vice President Cheney that Mohammed Atta may have met with an Iraqi intelligence officer before the September 11 attacks when the CIA did not believe the meeting took place.

In November 2003, a top secret report of the Feith office was leaked to the Weekly Standard. Shortly thereafter, Vice President Cheney said publicly that the article in the Weekly Standard was the "best source" of information about the relationship between Iraq and al Qaeda.

The bottom line is that intelligence relating to the Iraq-al Qaeda relationship was manipulated by high-ranking officials in the DOD

to support the administration's decision to invade Iraq when the intelligence assessments of the professional analysts of the Intelligence Community did not provide the desired compelling case. The IG's report is a devastating condemnation of inappropriate activities by the DOD policy office that helped take this Nation to war.

I want to thank the IG for his report and completing this review, and his independence. I am concerned, however, that only a two-page executive summary of the IG's report is available in unclassified form, and I plan to work with the IG and others to obtain declassification of this report.

Senator Inhofe.

Senator INHOFE. Thank you, Mr. Chairman.

First of all, you can read the same report and come up with different conclusions, which is quite obvious and will be obvious. I think that we of course want to hear from Mr. Gimble on the report so we can come to our own conclusions. I do not think in any way that his report could be interpreted as a devastating condemnation, as you point out, Mr. Chairman.

I have talked to the chairman of the Senate Select Committee on Intelligence (SSCI), Senator Pat Roberts, on numerous occasions about this and they have gone over it and over it and over it. He has had the SSCI, which is bipartisan, the bipartisan WMD Committee by Silverman, and our former colleague Chuck Robb separately examine these matters in detail. Each concluded unanimously that no intelligence analysts were pressured.

The SSCI also found that there was no basis for any allegations that had been made against the Under Secretary. Senator Roberts wrote the DOD IG, he was the first one to make this request and he did so for this reason. This is his quote now: "The committee is concerned about persistent and to date unsubstantiated allegations that there was something unlawful or improper about the activities of the Office of Special Plans with the Office of the Under Secretary. I have not discovered any credible evidence or unlawful or improper activity and yet the allegations persist."

In an attempt to stop these allegations once and for all, he had made the request to the IG's office.

Now, I would have to say also, Mr. Chairman, that these matters have been scrutinized at least three times in the last 3 years by bipartisan, nonpartisan groups. The SSCI unanimously reported that it found that this process, the policymakers' probing questions, actually improved the CIA's process. In other words, what they were doing in getting into this thing, and bringing these issues up, caused the Intelligence Community to go back and relook, and to reexamine, and to do a better job than they were going to do otherwise.

Some intelligence analysts even told the committee that policymakers' questions had—and I am quoting now—"questions had forced them to go back and review the intelligence reporting," and that during this exercise they came across information that they had overlooked in the initial readings. In other words, they actually provided a service by bringing these things up.

As I mentioned to you, Mr. Chairman, I will be leaving in 20 minutes to catch a plane, so I will not be bothering you too long here. Thank you very much.

Chairman LEVIN. Thank you very much, Senator Inhofe.

We will make part of the record at this time the SSCI's decision that the Feith investigation would be left to phase two. They have not completed their investigation or yet undertaken their investigation of the Doug Feith operation because by its own decision that was left to a future investigation called phase two. We will make that decision of the SSCI part of the record.

[The information referred to follows:]

109th Congress
(2005-2006)

108th Congress
(2003-2004)

107th Congress
(2001-2002)

Press Release of INTELLIGENCE Committee
Chairman Roberts and Vice Chairman Rockefeller Issue Statement on Intelligence Committee's Review of Pre-War Intelligence in Iraq

Contact: Bill Duhnke (202) 224-1700
Thursday, February 12, 2004

WASHINGTON, D.C. – Senator Pat Roberts (R-KS), Chairman, and Senator Jay Rockefeller IV (D-WV), Vice Chairman, of the Senate Select Committee on Intelligence, today announced that the Committee unanimously agreed to refine the terms of reference of the Committee's ongoing inquiry into pre war intelligence with regard to Iraq. The new terms are as follows:
A. The matters set forth in the joint release of the Chairman and Vice Chairman on June 20, 2003: 1. the quantity and quality of U.S. intelligence on Iraqi weapons of mass destruction programs, ties to terrorist groups, Saddam Hussein's threat to stability and security in the region, and his repression of his own people;

2. the objectivity, reasonableness, independence, and accuracy of the judgments reached by the Intelligence Community;

3. whether those judgments were properly disseminated to policy makers in the Executive Branch and Congress;

4. whether any influence was brought to bear on anyone to shape their analysis to support policy objectives; and

5. other issues we mutually identify in the course of the Committee's review;

B. the collection of intelligence on Iraq from the end of the Gulf War to the commencement of Operation Iraqi Freedom;

C. whether public statements and reports and testimony regarding Iraq by U.S. Government officials made between the Gulf War period and the commencement of Operation Iraqi Freedom were substantiated by intelligence information;

D. the postwar findings about Iraq's weapons of mass destruction and weapons programs and links to terrorism and how they compare with prewar assessments;

E. prewar intelligence assessments about postwar Iraq;

F. any intelligence activities relating to Iraq conducted by the Policy Counterterrorism Evaluation Group (PCTEG) and the Office of Special Plans within the Office of the Under Secretary of Defense for Policy; and

G. the use by the Intelligence Community of information provided by the Iraqi National Congress (INC).

Sen. Roberts said, "Today's agreement reflects a refinement and to a great extent a restatement of the Committee's ongoing review of pre-war intelligence. The resolution adopted unanimously today illustrates the commitment of all members to a thorough review, to learning the necessary lessons from our experience with Iraq, and to ensuring that our armed forces and policymakers benefit from the best and most reliable intelligence that can be collected. I believe that the report which we are currently reviewing will have a profound impact on the future of our Intelligence Community. My hope is that we be able to release our initial report soon and then continue our review as we work toward recommendations. I congratulate all members for their willingness to work together toward these goals."

Sen. Rockefeller said, "This agreement reflects a difficult and lengthy process, but in the end, we were able to reach consensus on the need to expand the investigation into several key areas."

"We will address the question of whether intelligence was exaggerated or misused by reviewing statements by senior policy makers to determine if those statements were substantiated by the intelligence," Rockefeller said. "We will take a closer look at the shortfalls in our intelligence collection. We will compare pre-war estimates to the situation in postwar Iraq, and we will pursue a better understanding of what role the Policy Counterterrorism Evaluation Group and the Office of Special Plans played in pre-war intelligence. There are definitely a few outstanding issues, but we've made a lot of progress, and it's clear that we're moving in the right direction."

211 Hart Senate Office Building, Washington, D.C. 20510 Phone: 202-224-1700

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Chairman LEVIN. Mr. Gimble.

STATEMENT OF THOMAS F. GIMBLE, ACTING INSPECTOR GENERAL, DEPARTMENT OF DEFENSE; ACCOMPANIED BY COMMANDER TAMARA HARSTAD, USN, OFFICE OF THE INSPECTOR GENERAL, DEPARTMENT OF DEFENSE

Mr. GIMBLE. Mr. Chairman, thank you for the opportunity to come before you today to brief the results of our review.

On September 9, 2005, Senator Pat Roberts, chairman of the Senate Select Committee on Intelligence, requested that my office

review whether the Office of Special Plans (OSP) "at any time conducted unauthorized, unlawful, or inappropriate intelligence activities." Later that month on September 22, 2005, Mr. Chairman, you requested that my office also review the activities of the Office of the Under Secretary of Defense for Policy, including the Policy Counterterrorism Evaluation Group (PCTEG) and the Policy Support Office, to determine whether any of their activities were either inappropriate or improper, and if so, provide recommendations for remedial action, and also you provided a list of 10 questions.

Our objective in this review was to determine whether the Office of the Under Secretary of Defense for Policy and activities of any of the former OSP or PCTEG organizations at any time conducted unauthorized, unlawful, or inappropriate intelligence activities from the time of 2001 through June 2003.

We performed this review from November 2005 through November 2006 in accordance with the "quality Standards for Federal Offices of Inspectors General." To achieve the objective, we interviewed 72 current or former personnel. We reviewed unclassified and classified documentation produced and available from September 2001 through June 2003. That included DOD directives, testimony, guidance, procedures, reports, studies, briefings, message traffic, e-mails, firsthand accounts, memoranda, and other official data on pre-war intelligence and the specific areas of inquiry posed by Congress.

We assessed information from the SSCI and documents also from the Under Secretary of Defense for Policy.

We found that the Office of the Under Secretary of Defense for Policy developed, produced, and then disseminated alternative intelligence assessments on Iraq and al Qaeda relations, which included conclusions that were inconsistent with the consensus of the Intelligence Community, and these were presented to senior decisionmakers.

While such actions are not illegal or unauthorized, the actions in our opinion were inappropriate, given that all the products did not clearly show the variance with the consensus of the Intelligence Community and in some cases were shown as intelligence products. The condition occurred because the role of the Office of the Under Secretary of Defense for Policy was expanded from the mission of doing defense policy to analyzing and disseminating alternative intelligence. As a result, the office did not provide the "most accurate analysis of intelligence" to the senior decisionmakers.

I would at this point like to just briefly, in an unclassified version, give a response to the 10 questions that you proposed to us, the first being: Did the Office of Under Secretary Feith produce its own intelligence analysis of the relationship between Iraq and al Qaeda and present its analysis to other offices in the executive branch, including the Office of the Secretary of Defense (OSD), and the staffs of the National Security Council and the Office of the Vice President? Yes. In our report we discussed that members of Under Secretary of Defense for Policy produced a briefing on terrorism based on intelligence reports and provided such report to the executive branch.

The second question: Did the intelligence analysis produced by Under Secretary Feith's office differ from the Intelligence Commu-

nity analysis on the relationship between Iraq and al Qaeda? Yes. The Under Secretary's office analysis included some conclusions that differed from those of the Intelligence Community.

The third question was: Was the alternative OSD-Policy intelligence analysis supported by underlying intelligence? We concluded: Partially. Alternative intelligence analyses that the policy office produced were not fully supported by underlying intelligence.

The fourth question: Did Under Secretary Feith send CIA Originator Controlled (ORCON) material to the SSCI in October 2003 without CIA approval to release it, even though such approval is required by Executive order? Yes. However, both CIA and the Under Secretary of Defense for Policy believed that CIA had approved the ORCON material before sending it to the SSCI in October 2003.

The fifth question: Did Secretary Feith mislead Congress when he sent several congressional committees in January 2004 revised ORCON materials that were represented as containing CIA's requested changes to the October 2003 document, but did not fully and accurately reflect CIA's requested changes? No, the Under Secretary did not mislead Congress when he sent the revised ORCON material to the congressional committees in January 2004.

The sixth question was: Did the Office of the Under Secretary of Defense prepare and present briefing charts concerning the relationship between Iraq and al Qaeda that went beyond available intelligence by asserting that an alleged meeting between lead September 11 hijacker Mohammed Atta and the Iraqi intelligence officer in Prague in April 2001 was a "known contact?" Yes, the policy office produced a briefing "Assessing the Relationship between Iraq and al Qaeda," in which one slide discussed the alleged meeting in Prague between Mohammed and the Iraqi intelligence officer as a "known contact."

The seventh question: Did the staff of the Under Secretary present a briefing on the al Qaeda relationship to the White House in September 2002 unbeknownst to the DCI, containing information that was different from the briefing presented to the DCI, not vetted by the Intelligence Community, and that was not supported by available intelligence for example, the alleged Atta meeting, without providing the Intelligence Community notice of the briefing or an opportunity to comment? Yes. The Under Secretary presented three different versions of the same briefing, of which some of the information was supported by available intelligence, to the Secretary of Defense, to the DCI, the Deputy National Security Adviser, and the Chief of Staff of the Office of the Vice President.

The eighth question: Did the staff of the Under Secretary of Defense for Policy undercut the Intelligence Community in its briefing to the White House staff with a slide that said there were "fundamental problems" with the way the Intelligence Community was assessing information concerning the relationship between Iraq and al Qaeda and inaccurately suggesting that the Intelligence Community was requiring legal evidence to support a finding, while not providing the Intelligence Community a notice of the briefing or an opportunity to comment? Yes, we believe that the slide undercuts the Intelligence Community by indicating to the recipient of the

briefing that there were fundamental problems with the way that the Intelligence Community was assessing the information.

The ninth question you proposed was: Did the Office of the Under Secretary of Defense for Policy briefing to the White House draw conclusions, or "findings" that were not supported by available intelligence, such as that the "intelligence indicates cooperation in all categories, a mature symbiotic relationship," or that there were "multiple areas of cooperation," shared interests, and pursuit of WMD, and some indications of possible Iraqi coordination with al Qaeda specifically related to September 11? Yes, the briefing did draw conclusions that were not fully supported by available intelligence.

The final question was: Did the Under Secretary of Defense for Policy staff prepare and did Under Secretary Feith send to the Secretary of Defense and the Deputy Secretary of Defense a written critique of a report titled "Iraq and al Qaeda, Interpreting a Murky Relationship" that was prepared by the DCI Counterterrorism Center, stating that the "CIA's interpretation ought to be ignored," without providing CIA notice or opportunity to respond? Yes. However, there is no requirement to provide an internal OSD document to CIA for their review.

That concludes my statement and I would, subject to classification, be willing to entertain any questions that I could.

[The prepared statement of Mr. Gimble follows:]

DoD Inspector General

Report on Review of the Pre-Iraqi War Activities of the Office of the Under Secretary of Defense for Policy (Report No. 07-INTEL-04)

February 9, 2007

Background

- On September 9, 2005, Senator Pat Roberts, Chairman of the Senate Select Committee on Intelligence, requested that the Office of Inspector General, Department of Defense review whether the Office of Special Plans (OSP), "at any time, conducted unauthorized, unlawful or inappropriate intelligence activities."

- On September 22, 2005, Senator Carl Levin requested that the Office of Inspector General, Department of Defense review the activities of the OUSD(P), including the PCTEG and Policy Support Office to determine whether any of their activities were either inappropriate or improper, and, if so, provide recommendations for remedial action. A list of 10 questions was also provided for our review.

2

Review Objective

- The Review objective was to determine whether the OUSD(P) offices and activities of the former OSP and PCTEG organizations, "…at any time, conducted unauthorized, unlawful or inappropriate intelligence activities from September 2001 through June 2003.

- We performed this review from November 2005 through November 2006 in accordance with the "Quality Standards for Federal Offices of Inspector General."

3

Scope of Review

- To achieve our objective, we:
  - Interviewed 75 current or former personnel
  - Reviewed unclassified and classified documentation produced and available from September 2001 through June 2003 including DoD Directives, testimony, guidance, procedures, reports, studies, briefings, message traffic, e-mails, first-hand accounts, memoranda, and other official data on prewar intelligence and the specific areas of inquiry posed by Congress.
  - Assessed information from the SSCI and documents from OUSD(P)

4

Finding: OUSD(P)'s Use of Intelligence

- The Office of the Under Secretary of Defense for Policy [OUSD(P)] developed, produced, and then disseminated alternative intelligence assessments on the Iraq and al-Qaida relationship, which included some conclusions that were inconsistent with the consensus of the Intelligence Community, to senior decision makers.
- While such actions were not illegal or unauthorized, the actions were, in our opinion, inappropriate given that the products did not clearly show the variance with the consensus of the Intelligence Community and were, in some cases, shown as intelligence products.
- This condition occurred because the OUSD(P) expanded its role and mission from formulating Defense Policy to analyzing and disseminating alternative intelligence. As a result, the OUSD(P) did not provide "the most accurate analysis of intelligence" to senior decision makers.

5

Response to Senator Levin's Questions

1. Did the Office of Under Secretary Feith produce its own intelligence analysis of the relationship between Iraq and al Qaeda and present its analysis to other offices in the Executive branch (including the Secretary of Defense and the staffs of the National Security Council and the Office of the Vice President)?

Yes. In our report we discuss that members of the OUSD(P) produced a briefing on terrorism based on intelligence reports and provided to the Executive Branch.

2. Did the Intelligence analysis produced by Under Secretary Feith's office differ from the Intelligence Community analysis on the relationship between Iraq and al Qaeda?

Yes. The OUSD(P) analysis included some conclusions that differed from that of the Intelligence Community.

3. Was the alternative OSD Policy intelligence analysis supported by the underlying intelligence?

Partially. The alternative intelligence analysis that OUSD(P) produced was not fully supported by underlying intelligence.

Response to Senator Levin's Questions

4. Did Under Secretary Feith send CIA ORCON material to the Senate Select Committee on Intelligence in October 2003 without CIA approval to release it, even though such approval is required by Executive Order?"

Yes. However, both the CIA and the OUSD(P) believed that the CIA had approved the ORCON material before sending it to the SSCI in October 2003.

5. Did Under Secretary Feith mislead Congress when he sent to several congressional committees in January 2004 revised ORCON materials that were represented as containing CIA's requested changes to the October 2003 documents, but which not fully and accurately reflect CIA's requested changes?

No. The Under Secretary Feith did not mislead Congress when he sent revised ORCON material to congressional committees in January 2004.

Response to Senator Levin's Questions

6. Did the Office of the Under Secretary of Defense for Policy prepare and present briefing charts concerning the relationship between Iraq and al Qaeda that went beyond available intelligence by asserting that an alleged meeting between lead 9/11 hijacker Mohammed Atta and Iraqi intelligence officer al-Ani in Prague in April 2001 was a 'known' contact?'

Yes. The OUSD(P) produced a briefing, "Assessing the Relationship between Iraq and al-Qaida," in which one slide discussed the alleged meeting in Prague between Mohammed Atta and Iraqi Intelligence officer al-Ani as a "known contact."

7. Did the staff of the OUSDP present a briefing on the Iraq-al Qaeda relationship to the White House in September 2002 unbeknownst to the Director of Central Intelligence, containing information that was different from the briefing presented to the DCI, not vetted by the Intelligence Community, and that was not supported by the available intelligence (for example, concerning the alleged Atta meeting), without providing the IC notice of the briefing or an opportunity to comment?

Yes. The OUSD(P) presented three different versions of the same briefing, of which some of the information was supported by available intelligence, to the Secretary of Defense, the DCI, the Deputy National Security Advisor and the Chief of Staff, OVP.

Response to Senator Levin's Questions

8. Did the staff of the OUSDP undercut the Intelligence Community (IC) in its briefing to the White House staff with a slide that said there were 'fundamental problems' with the way the IC was assessing information concerning the relationship between Iraq and al-Qaeda, and inaccurately suggesting that the IC was requiring 'juridical evidence to support a finding,' while not providing the IC notice of the briefing or an opportunity to comment.

Yes. We believe that the slide undercuts the Intelligence Community by indicating to the recipient of the briefing that there are "fundamental problems" with the way that the Intelligence Community was assessing information.

9. Did the OSD Policy briefing to the White House draw conclusions (or 'findings') that were not supported by the available intelligence, such as the 'intelligence indicates cooperation in all categories; mature, symbiotic relationship', or that there were 'multiple areas of cooperation,' and shared interest and pursuit of WMD, ' and 'some indications of possible Iraqi coordination with al Qaida specifically related to 9/11'

Yes. The briefing did draw conclusions that were not fully supported by the available intelligence.

Response to Senator Levin's Questions

10. Did OUSDP staff prepare, and did Under Secretary Feith send to the Secretary of Defense and the Deputy Secretary of Defense, a written critique of a report entitled Iraq and al Qaida: Interpreting a Murky Relationship prepared by the DCI's Counter Terrorism Center (CTC), stating that the 'CIA's interpretation ought to be ignored,' without providing the CIA notice or an opportunity to respond?

Yes, however, there is no requirement to provide an internal OSD document to the CIA for their review.

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Chairman LEVIN. Thank you, Mr. Gimble.

We will start with 6-minute rounds and we will have more than one round, but this is to accommodate a number of members who I believe have to leave immediately.

Mr. Gimble, in my letter of September 2005 I asked you to look into whether the alternative intelligence assessments of the Feith office differed from the Intelligence Community analysis which was provided to the Office of the Vice President and to the National Security Council and whether it differed on the relationship between Iraq and al Qaeda.

Your report says that it did differ and I want to ask you about a few specifics. Did the Intelligence Community agree with the following Feith conclusions: one, that it was known that Mohammed Atta, the lead hijacker, and an Iraq intelligence agency met in Prague in April 2001?

Mr. GIMBLE. There was a difference. The Intelligence Community thought that it was not a verifiable meeting and subsequently it was proven that it did not occur. But prior to that there were questions as to whether it did or did not. It was not as presented.

Chairman LEVIN. It was not a known contact?

Mr. GIMBLE. Right.

Chairman LEVIN. Did the Intelligence Community agree with the following Feith conclusion: that the relationship between Iraq and al Qaeda was a mature, symbiotic relationship?

Mr. GIMBLE. It did conclude that.

Chairman LEVIN. Sorry?

Mr. GIMBLE. It did conclude that.

Chairman LEVIN. The Intelligence Community did agree with that or did not?

Mr. GIMBLE. It did not agree with that.

Chairman LEVIN. Did the Intelligence Community agree with the following Feith conclusion: that intelligence indicates cooperation in all categories between Iraq and al Qaeda? Did they agree?

Mr. GIMBLE. Did the Intelligence Community agree? No, they did not.

Chairman LEVIN. Did the Intelligence Community agree that Iraq and al Qaeda had a shared interest in pursuit of WMD?

Mr. GIMBLE. The answer is no.

Chairman LEVIN. The answer is no, you said?

Mr. GIMBLE. Correct.

Chairman LEVIN. So on four critical issues your report has found that the Intelligence Community did not agree with the Feith finding in its alternative intelligence assessment presented to the highest policymakers in this country, that it was known that Atta—the lead hijacker—met with Iraqi intelligence agency, that there was a symbiotic relationship between Iraq and al Qaeda, that intelligence indicates cooperation in all categories between Iraq and al Qaeda, that Iraq and al Qaeda had a shared interest in pursuit of WMD.

I cannot think of a much more devastating commentary on an analysis which was presented to the highest levels of this government, than what you have found. I will stand by the statement that this is devastating, because without the knowledge of the Intelligence Community we have an alternative intelligence analysis being presented on war or no-war issues, whether or not the people who attacked us on September 11 had a connection to Saddam Hussein.

These issues are as critical as any issues I have ever seen in the Intelligence Community. These issues and these assessments that were provided to the highest level policymakers backed a decision to go to war. What is more important than that, I cannot think of anything. What is more devastating than a commentary that we had this second route of intelligence assessments going to the Vice President of the United States and the National Security Council? What commentary can be more essential to the life of this Nation and to our citizens than that? I cannot think of many things.

Then when you track the statements made by the policymakers, which made out a greater connection between al Qaeda and Saddam Hussein than was supported by the Intelligence Community, and when the American people were told that there was a likely meeting between the lead hijacker and Iraqi secret service in Prague, when the Intelligence Community did not believe that meeting took place, had grave doubts that that meeting took place and always did, this is as serious a matter I believe as this committee has considered.

I know the SSCI has before it yet undone a phase two investigation of the operations of the Feith office. That phase two investigation by the SSCI lies ahead of it. But these matters it seems to me are of the utmost seriousness to this Nation and we are very, very grateful for your decision to look into these and to give us your own independent assessment.

Now, I said there was to be a 6-minute round. I do not want to overdo it because I know Senator Inhofe has to leave. So, Senator Inhofe.

Senator INHOFE. Thank you, Mr. Chairman.

Mr. Gimble, as I understand it the routing that took place of the information that Secretary Feith had went from him to Wolfowitz and Rumsfeld at DOD, and it went from them to Tenet and Jacoby, the DCI and Defense Intelligence Agency (DIA), and then it went on to Hadley; is this the routing that you believe took place?

Mr. GIMBLE. Yes, sir. If you would like some dates I can probably provide some of that.

Senator INHOFE. All right. If this routing, instead of going from Feith to DOD and then to DCI, DIA, if it had gone to DCI, DIA first, then to DOD, and then to Hadley, would that have been more appropriate?

Mr. GIMBLE. Let me explain what happened based on the documentation that we see. There was a tasking put out in January 2002 from the Deputy Secretary to Under Secretary Feith to assess the links between al Qaeda and Iraq. Then the next point where there was a decision point was in July 25, 2002, there was a group of detailees in the policy shop, intelligence analysts that were detailed over, that compiled a position paper that was later translated into a briefing.

That briefing was on August 8 presented to the Secretary and at that time, he gave direction to give it to DCI Tenet. But in the timeframe of August 9 through 14, the Intelligence Community players that included DIA, CIA, and a number of other Intelligence Community people, looked at that July 25 memo and critiqued it and they had significant disagreement. There was some agreement, but there was significant disagreement. There was like 26 points.

Essentially, they disagreed with more than 50 percent of it and either agreed or partially agreed with the remainder. I can get into that in the closed session.

[Additional information provided for the record follows:]

Clarification on the July 25, 2002 OUSD(P) "Iraq and al Qaeda: Making the Case" memorandum.

On July 25, 2002 a DIA analyst detailed to OUSD(P) wrote a paper titled, "Iraq and al Qaeda: Making the Case," in which she outlined an intelligence finding that Iraq was supporting al Qaeda's terrorist activities. On August 14, 2002, a senior analyst from the DIA's JITF–CT addressed every point (there were 26) asserted in the memorandum. We found that of the 26 points, DIA disagreed with more than half.

Senator INHOFE. All right. That is not necessary. I am just trying to get——

Mr. GIMBLE. Here is the other part of the flow of the information. When they had the August 15 briefing with the DCI, there was reported in some cases where the DCI agreed with the thing and said this is a useful presentation, and he did, in fact, do that. He said it was useful. In our interviews with him, he later said that he only said that it was useful because he did not agree with it and he was just trying to nicely end the meeting.

As a result of that meeting, he called together all the analysts, which on August 20, the Intelligence Community and the policy group all met together and they debated the agreements and disagreements. What happened at that roundtable was the CIA did do some changes on their report, some minor changes as I understand it. The other part of it was that they offered to footnote those disagreements. Our issue in our report is, you can have different opinions, but you need, if there are differences you should—if you do

not vet them, you should at least identify them to the decision-makers.

Then the next thing was that, after that they chose not to footnote, the policy group went and did the final briefing to the National Security Deputy Advisor of the National Security Council, and they did not make the changes that were talked about in that August 20 meeting.

So that is my view of the flow of information.

[Additional information provided for the record follows:]

Clarification on OUSD(P) footnoting Intelligence Community (IC) products.

The August 20, 2002, IC/OUSD(P) meeting was a workshop to discuss a common assessment for a CIA report discussing Iraq and terrorism. Members from the OUSD(P) staff declined to footnote this product because they knew it was inappropriate for OUSD(P) to footnote an IC product. The DIA detailee acknowledged that analysts from her parent agency were in attendance at this meeting and were the appropriate people to discuss and comment on terrorism issues from DIA's point of view.

Senator INHOFE. All right. As I read this material, and I have been around long enough to recognize this when I see it, I see a lot of turf battle taking place here. On July 9, 2004, Senator Rockefeller insinuated that Mr. Feith may have been executing intelligence activities which are not lawful. He said that they were not lawful.

Did you have any evidence that Mr. Feith did anything illegal?

Mr. GIMBLE. We had no evidence that he did anything illegal, nor did he do anything that was not authorized.

Senator INHOFE. That was in your report.

Real quickly, my feeling in my opening statement as I stated is that these things have been scrutinized many, many times over the past few years. But the interesting thing that I found is that the SSCI unanimously reported that it found that the process, the policymakers' probing questions, actually improved the CIA's process.

Now, what they are saying is that there are some things that were improved as a result of being forced to go back and look as a result of, whether this is improper or proper, the activities of Mr. Feith. Do you think that that individual is right when he makes that statement?

Mr. GIMBLE. I think the statement is right in this respect, I think they did go back but they did not necessarily change the process. They went back and looked at some of the information.

Senator INHOFE. That they would not have otherwise looked at perhaps?

Mr. GIMBLE. Probably not. They did make some adjustments, and I understand those adjustments were minor, but I have no opinion on that.

Senator INHOFE. It says some analysts even told the committee that the policymakers' questions had forced them to go back and review the intelligence reporting, and that during this exercise they came across information that they had overlooked in the initial findings. Is that what you are saying also?

Mr. GIMBLE. I am saying that they went back—it did cause them to go back and look, as I understand, and there were some adjustments made.

Senator INHOFE. Your report says that this was not illegal, that in fact it is rather benign, the way it characterized the actions of

Mr. Feith. Would you say that his actions were—or that your report is a devastating condemnation against Secretary Feith?

Mr. GIMBLE. My report is, what I view it as is a flat, fact-based report of the events that occurred. I do not have an opinion as to whether it is devastating or not devastating.

Senator INHOFE. Thank you, Mr. Gimble.

Thank you very much.

Chairman LEVIN. Thank you very much, Senator Inhofe.

Senator Webb.

Senator WEBB. Thank you, Mr. Chairman, and thank you, Mr. Gimble, for being here, and also for your service, not only in the Pentagon but in Vietnam. I think it should be noted you were wounded as a soldier in Vietnam. I have a great respect for your service.

I would like to strongly associate myself with the comments of the chairman. I think this is an issue that is vitally important, not only in retrospect, but also today in terms of how it relates to the health of our society and the functioning of our government. I was one of those many people outside government as this process was going on, but as someone who had 5 years in the Pentagon and watching these assessments come out, I and a number of people were actively skeptical and troubled by some of the information that was coming out.

When you indicate in here that these actions were not illegal or unauthorized—and I want to get to the "unauthorized" part in a minute—but that were inappropriate, you made the point here this morning—I am going to quote you—as saying that in some cases they were shown as "intelligence products." That seems to be your demarcation on the appropriateness of the level.

I would say that was extremely damaging, not only to the process of government but to the public's understanding of the stakes in the invasion of Iraq, and that is a misunderstanding that persists to this day and affects the debates that are going on right now. So, I thoroughly agree with the chairman here that this is something that we need to continue to look at in terms of accountability and the health of the process.

I was reading through lists of follow-on questions and answers. If the chairman does not mind, these came from the chairman, but there are a couple here that I would like to ask you a question about. The first is, when we talk about the notion of being authorized or unauthorized, your answer here was that, in terms of these actions being unauthorized, is that you said in your written answer: "Many of the activities were authorized by the Secretary or Deputy Secretary. Therefore the activities were not unauthorized."

What does that mean for the ones that were not authorized by the Secretary or Deputy Secretary?

Mr. GIMBLE. The ones that we looked at, we concluded that they were authorized. It was a broad, "go forward and do an alternate intelligence assessment," even though they did not use that term. We thought the Secretary and the Deputy Secretary had the authority under DOD Directive 51–11.1, other duties as assigned, essentially.

If you go back to the January 22 memorandum that went from Dr. Wolfowitz to Under Secretary Feith, it was interesting to us

that, if you do analyzing and establishing links, that in our opinion is an intelligence activity. It was interesting that that was directed to the policy shop and not back through either, at the time, Assistant Secretary of Defense for Command, Control, Communication, and Intelligence (C^3I), which is the intelligence group, or through the Director of Intelligence in DIA. It went down a policy channel. It was taken out of the intelligence channels, and it appeared to be for us an alternative intelligence assessment.

We think that was authorized, we think it is legal. The issue for us, the reason we said it was inappropriate, was we think when you have differing views of unvetted information it is the responsibility of the presenter to present both sides of it. That's where we come with our determination that this was inappropriate.

Senator WEBB. So just so I can understand this, you are saying that there were activities that had not been authorized by the Secretary or Deputy Secretary, but in your view had been authorized by other portions of the——

Mr. GIMBLE. No, sir. We think that what they did was authorized by the Department.

Senator WEBB. All?

Mr. GIMBLE. I am not aware of any offhand. The major thrust, it was all authorized. There may be one or two that the Secretary did not, or Deputy Secretary——

Senator WEBB. In your answer you say "many" rather than "all."

Mr. GIMBLE. I really think that is an imprecise answer on my part in the written report.

Senator WEBB. Okay. You also at another place here, question 4, state that there were a number of documents—being loyal to my chairman here—that were denied access, and that three of these documents were relevant to the review, but none were relevant to the finding. But your finding essentially seems to say that the overall problem has been fixed with the new sophistication in the process.

But how were they relevant to the review and not to the finding?

Mr. GIMBLE. There were 58 documents that were in question. We had access to all 58 documents. When we look at the specific question that we are dealing with on this particular report, 55 of them did not deal with these issues. Three of them did deal with them, but they were kind of background, related, but at the end of the day they did not have any impact on our assessment or finding.

Senator WEBB. But would they have an impact, in your view, on the public's understanding of how we got into this?

Mr. GIMBLE. No, sir, I do not believe they would. Otherwise we would have incorporated the results of them into our review.

Senator WEBB. I thank you.

Chairman LEVIN. Thank you, Senator Webb.

Senator Chambliss.

Senator CHAMBLISS. Thank you, Mr. Chairman.

Let me just say, after listening to everything I have heard this morning, I am trying to figure out why we are here. We are beating this horse one more time.

But let me see if I can, Mr. Gimble, get the record straight. Did the OSP at the DOD gather any intelligence?

Mr. GIMBLE. They had access to intelligence databases and——

Senator CHAMBLISS. Did they gather any intelligence?

Mr. GIMBLE. You mean like a source——

Senator CHAMBLISS. Mr. Gimble, did they gather any intelligence? It is a simple question.

Mr. GIMBLE. No, they did not go out and do first source gathering.

Senator CHAMBLISS. So they did not gather intelligence. They analyzed intelligence that had been gathered by the CIA, the DIA, our Intelligence Community; is that correct?

Mr. GIMBLE. That is correct.

Senator CHAMBLISS. All right. Now, there were a lot of people doing analysis of that information, is that correct, within the CIA, within the DIA, and the other aspects of the Intelligence Community?

Mr. GIMBLE. Yes, sir.

Senator CHAMBLISS. Part of the information that was obtained by the Intelligence Community was a report with respect to contact between Atta and the al Qaeda, is that correct?

Mr. GIMBLE. Correct.

Senator CHAMBLISS. Now, where did that come from?

Mr. GIMBLE. I need to go back and do that in closed session. That would be classified. If we could defer that I would be more than happy to answer.

Chairman LEVIN. We will have a closed session immediately after this.

Senator CHAMBLISS. I do not believe that is classified. It has been pretty public that it came from the Czech service. Is that correct?

Mr. GIMBLE. That is one place, yes.

Senator CHAMBLISS. That is one place? So it came from more than one place?

Mr. GIMBLE. It came from the Czech service. Basically, the position of the Intelligence Community is it was not verifiable and there was some question about the validity of the source.

Senator CHAMBLISS. There was a question. There was a question in the analysis as to whether it was right or not, is that not correct?

Mr. GIMBLE. Yes.

Senator CHAMBLISS. Some people in the Intelligence Community thought it was correct, others thought it was incorrect?

Mr. GIMBLE. The consensus——

Senator CHAMBLISS. Okay.

Chairman LEVIN. Excuse me. What was the answer?

Mr. GIMBLE. The consensus of the Intelligence Community thought it was not verifiable.

Senator CHAMBLISS. The Czech service was pretty confident about their source, were they not?

Mr. GIMBLE. They were.

Senator CHAMBLISS. Can you tell me when the Czech service finally said that they thought their source was not correct?

Mr. GIMBLE. 2006.

Senator CHAMBLISS. January 2006. So some, I do not know, 6 years after the fact. My point being that the Intelligence Community is not exact science. There are differences of opinion. In our report that the SSCI made, of which Senator Levin was a member

of at the same point in time that I was, we had what I think is a correct conclusion that Senator Levin and I agreed on that the intelligence provided by the Intelligence Community to policymakers and decision makers pre the conflict in Iraq was flawed, and one of the reasons it was flawed is because there were folks at the State Department who had access to information that was different from the information that the CIA had and the DIA had. Do you recall that?

Mr. GIMBLE. Not the State Department——

Senator CHAMBLISS. Suffice it to say that is correct. It is in the report. There was a disagreement within the Intelligence Community as to what the reliability of the sources were. I'll mention Curveball because everybody has read about Curveball now, and that source at the end of the day turned out to be unreliable. But at the time the information was taken by the CIA they thought he was reliable, but it turns out he was unreliable. So again my point is that this is not an exact science.

Now, the IG report that you issued cites as evidence Senator Levin's "Report of an Inquiry into the Alternative Analysis of the Issue of Iraq-al Qaeda Relationship." That report claims that administration officials made statements which did not accurately reflect the intelligence assessments that were provided by the Intelligence Community.

Now, the community provided to the SSCI over 40,000 intelligence assessments on Iraq from the Intelligence Community which support the administration's statements. Did you examine the full scope of the Intelligence Community documents to enable you to conclude that public statements made included information which did not come from the Intelligence Community?

Mr. GIMBLE. What our issue was, and I think we are getting a little off point here, is that the briefing was—for example, the meeting you are talking about was a briefing that was provided without the caveats. In other words, all we are saying is, we do not have a conclusion which side is right or which is wrong. What we are concluding is if you have disagreements, significant disagreements, it is the responsibility of the presenter to make those aware, make the people they are presenting to aware of those disagreements.

Senator CHAMBLISS. Which is exactly the point that Senator Levin and I made in our report of the intelligence leading up to the conflict in Iraq.

Now, the most famous comment that came out of the issue of WMD in Iraq was "slam-dunk." Director Tenet, when asked by the President as to whether or not there were WMD in Iraq, he said it is a slam-dunk. Do you recall that?

Mr. GIMBLE. I saw that on TV, yes.

Senator CHAMBLISS. Is there anything in your investigation that indicates that statement by Director Tenet was made based upon information obtained from Mr. Feith?

Mr. GIMBLE. We did not look at that, WMD. We looked at the relationship between Iraq and al Qaeda.

Senator CHAMBLISS. At the time that Mr. Feith made his investigation and gave a briefing, who did he give the briefing to first?

Mr. GIMBLE. The first briefing of the series of three was to the Secretary and Deputy Secretary. As I was saying earlier, the Secretary told them to go brief the DCI, which they did, and then——

Senator CHAMBLISS. Wait a minute. He briefed the Secretary of Defense and the Secretary of Defense said: This is interesting; go brief George Tenet, the head of the CIA.

Mr. GIMBLE. Correct.

Senator CHAMBLISS. Did he go brief George Tenet?

Mr. GIMBLE. He went and briefed—yes, he did.

Senator CHAMBLISS. Did Director Tenet make any comment after the briefing?

Mr. GIMBLE. The comment that we had in the subsequent interview was that he told them, he dismissed the meeting saying, this is useful, and that he immediately got back the intelligence group, to include Admiral Jacoby, and put together the meeting that came up on August 20, to get the analysts together to vet out the differences or disagreements. He thought his position and the CIA's position was that they did not agree with the Under Secretary's position.

Senator CHAMBLISS. So once again we had a disagreement in the community over issues of interest, is that correct?

Mr. GIMBLE. That is correct.

[Additional information provided for the record follows:]

OUSD (Policy) is not a member of the Intelligence Community; it is a consumer.

Senator CHAMBLISS. Thank you, Mr. Chairman.

Chairman LEVIN. Thank you, Senator Chambliss.

Senator Reed.

Senator REED. Thank you, Mr. Chairman.

The opinion of the Intelligence Community in the fall of 2002 with respect to the meeting, the alleged meeting, with Atta in Prague was that it was not substantiated; is that fair to say?

Mr. GIMBLE. That is correct.

Senator REED. Mr. Feith was aware of that?

Mr. GIMBLE. They were aware of that.

Senator REED. His conclusion in his briefing was that this was known, it was a fact; is that correct?

Mr. GIMBLE. That is correct.

Senator REED. So that was a significant departure from the conclusion of the Intelligence Community, deliberately made by Secretary Feith?

Mr. GIMBLE. It was a difference between the consensus opinion of the Intelligence Community.

Senator REED. Now, in the series of briefings that Mr. Faith gave, did he provide identical information at every briefing?

Mr. GIMBLE. There were some variations of the briefing.

Senator REED. What are the most significant variations?

Mr. GIMBLE. Let me get that, capture this correctly.

Senator REED. Can you please bring the microphone up?

Mr. GIMBLE. Let me get this. I need to make sure what is not classified. [Pause.]

Senator, this is marked "SECRET." I understand the——

Senator REED. I do not want to go into SECRET matters here because that is inappropriate. But in a general sense, he changed the briefing for his audience; is that correct?

Mr. GIMBLE. Yes, he did.

Chairman LEVIN. Sorry?

Senator REED. He changed the briefing for his audience?

Mr. GIMBLE. There were adjustments made depending on the audience.

Senator REED. Why would he do that? Why would he change significant—without going into details, this is not just paragraph and grammatical changes. Why would he make changes based on the audience?

Mr. GIMBLE. I do not think I am in a position to make a comment on why he would do what he did.

Senator REED. Did you interview Mr. Feith under oath?

Mr. GIMBLE. We interviewed Mr. Feith. It was not under oath.

Senator REED. Why would you not interview him under oath?

Mr. GIMBLE. Because this was a review, not an investigation. We typically do not, unless we are doing either an administrative or criminal investigations, we typically do not swear people in.

Senator REED. So, Mr. Feith has never under oath responded to any of these questions. You specifically have not asked him why he would change briefings for different audiences; is that correct?

Mr. GIMBLE. Not under oath.

Senator REED. Not under oath. Did you ask him in terms of an interview, why he changed his briefing?

Mr. GIMBLE. One of the changes was they took a slide out of the briefing to the DCI, to Mr. Tenet, because it was critical of the intelligence process, and according to Secretary Feith, that is the reason they took it out.

Senator REED. Now, some of my colleagues have been talking about improving the process. How do you improve the process when you have a chance to talk to the DCI and you specifically do not criticize what he is doing?

Mr. GIMBLE. Again, I think the process is pretty good. There is a vetting. There is a process in place by regulation, when you have differences of opinion you stand the analysts—stand those interpretations of their positions up and they either stand or fall on their own merit. If you still have significant disagreements at the end of that, it is that responsibility, I think, to identify those and document them. That is actually what was not done in this case.

Senator REED. I understand, and you might have more specificity, that Mr. Feith briefed the White House in 2002, but Director Tenet was not aware of that briefing until approximately 2 years later; is that correct?

Mr. GIMBLE. That is my understanding.

Senator REED. That is your understanding. So, when Mr. Feith briefs the DCI, my presumption—and your advice would be appreciated—is that they would consider this as an ongoing process of trying to reconcile different viewpoints on intelligence. But unbeknownst to the DCI, a briefing which he might agree with or disagree with has already been given to the White House in a manner that suggests it is authoritative and accurate. Is that a fair assessment?

Mr. GIMBLE. Let me clarify a couple of points in this. First of all, the briefing that was done at the National Security Council that was attended by the chief of staff of the Vice President; Secretary Feith was not present at that briefing. It was staff that gave that briefing. From looking at the charts, it appears that it was briefed, and I do not know the discussion that went on, but it was briefed and it was authoritative, in my view, as "these are the facts."

Senator REED. Your subsequent conclusion suggested that some of those facts were in serious doubt at that time?

Mr. GIMBLE. The Intelligence Community had some serious issues with some of the facts.

Again, I need to just remind everyone, we did not make an assessment on the validity of either side of this issue. We are just merely saying that there was a discrepancy out there and we do not think it was reconciled and presented, both sides of it, as the briefings went on.

Senator REED. I must say I am very troubled about this. I think everyone around here understands that intelligence is sometimes an art, not a science. But when you change the picture for your audience, it is deeply suspicious of your motives and your intentions.

Thank you.

Chairman LEVIN. Thank you, Senator Reed.

Senator Sessions.

Senator SESSIONS. I am not a part of the Intelligence Community and have not tried to master this brouhaha that has been going on, blame somebody about all our intelligence issues, and have not tried to fully master it. I know my feeling about the Iraq war was based on my belief that Iraq was violating the resolutions of the United Nations, the agreements they made after the first Iraq war, and that they were breaching the embargo. We were flying aircraft over them and dropping bombs on them, they were shooting missiles at us, on a weekly, almost daily basis. We either had to get that brought to a conclusion or not. I think my remarks at the time indicate that that was my primary concern, and I think it was the main concern of our foreign policy.

But these were matters of importance. So I ask, Mr. Gimble, is it not true that some staffers in Mr. Feith's shop found some information in the intelligence gathered by our intelligence-gathering agencies that indicated on the surface that there was a connection between Iraq and al Qaeda?

Mr. GIMBLE. They did find information that they concluded that there was.

Senator SESSIONS. This had not been even referred to in some of the intelligence—in the Intelligence Community assessments of Iraq and al Qaeda, is that not right? Even to dismiss it?

Mr. GIMBLE. There was a lot of information out there. Specifically, if you have a specific point we can go look.

Senator SESSIONS. This is the point. I am just trying to put myself in Mr. Feith's shop. His staffers come to him and say: "We found some references to connections between Iraq and al Qaeda that is not in the CIA report." Is that not basically what they briefed the Secretary of Defense about, and pointed out some other things that had not been brought forth in the Intelligence Community summary of the facts?

If I am mistaken, correct me.

Mr. GIMBLE. I think what happened there is that they have information. There are a lot of reports out there. As someone said earlier, there is something like 40,000 pages that you on the SSCI reviewed. I do not know what is in each of those 40,000 pages, but what our position is, what my report says, is that there was a known disagreement between the Intelligence Community and the policy shop——

Senator SESSIONS. No, no. If you cannot answer this question, just tell me. But my impression is that they found things that showed a connection that was not referred to in the Intelligence Community summary and that they felt at least should have been referred to, and they shared that with the Secretary of Defense, and the Secretary of Defense said: "Why do you not go over and talk to the CIA and talk to them about it, and find out what the facts are." Is that not basically what happened in those two steps?

Mr. GIMBLE. They did. They went over——

Senator SESSIONS. All right.

Mr. GIMBLE.—and the intelligence agencies disagreed with them.

Senator SESSIONS. All right. Then they went and gave a briefing to the National Security Director, Assistant Director, Mr. Hadley, and Mr. Libby, right?

Mr. GIMBLE. They did.

Senator SESSIONS. They showed some of the things they had found that had not been referred to in these reports?

Mr. GIMBLE. They showed some conclusions that disagreed with——

Senator SESSIONS. Now, you—go ahead. Excuse me. I do not want to interrupt you. I think that is important, what you are saying right here.

Mr. GIMBLE. I think the information was all out there. It is just how you interpret it. Intelligence is not an art and I think that was said earlier. So it is not an art, but the process of evaluating it should be a pretty good science. You need to have a rigid process to go through. When you have disagreements between legitimate people—and these were legitimate people, they are hard-working people—you have disagreements between them, the vetting should occur. If there still cannot be agreement on it, it is the responsible thing to let the decisionmakers know both sides of the equation. That is all we are saying.

Senator SESSIONS. I would assume that is what Mr. Feith's staff did when they briefed the National Security Council.

Mr. GIMBLE. They did not show the other, dissenting side. That is the issue that we have.

Senator SESSIONS. Mr. Gimble, the National Security Council had already been given the Intelligence Community's consensus opinion, had they not?

Mr. GIMBLE. We did not look at that. I am sure that——

Senator SESSIONS. I am sure they had.

Mr. GIMBLE. But the point is, if you are making a point you probably need to say, what we conclude is different from the people that are engaged to do intelligence collection and analysis. All we are saying is give the full picture of it.

Senator SESSIONS. I am just trying to follow this through. I just want to get to the bottom of it. So they go there to the National Security Assistants, Mr. Hadley and Mr. Libby, and they present their little presentation that Director Tenet had already said was useful, right?

Mr. GIMBLE. He later said the reason he said it was useful is because he just wanted to courteously dismiss the thing, and later said to us that he disagreed with it.

Senator SESSIONS. But in the mind——

Chairman LEVIN. I am sorry. I did not hear the end of his answer. You said it was useful and then—what was the end of the answer?

Mr. GIMBLE. He said the term "useful" for the briefing, he said it was "useful." This was our interview with Mr. Tenet, that it was a courteous way of ending the meeting; he did not agree with the position, nor did CIA, is what he told us. He immediately kept Admiral Jacoby back in there and he told him to get this back into analytical channels and get the analysts talking.

Immediately after that, they called a meeting at which they had the intelligence analysts and Secretary Feith's policy analysts, and they had a meeting to discuss the differences. They did that. The CIA made some changes that were categorized to us as somewhat minor. They made the changes in the report, and they offered to footnote the remaining differences of opinion that the policy folks had. The policy folks said they did not think that was appropriate for them, because they were policymakers, not intelligencemakers.

Then when they did not do that, approximately 3 weeks later the policy group went up and briefed their story and did not put in the discussion about what happened at that forum on August 20, to put the other side of the story to get a balanced picture.

I go back. The only thing we have said in our report is this, is that it is legitimate to have disagreements, there is a vetting process in the Intelligence Community to work those disagreements, and you may still have disagreements at the end of the day; but it is probably responsible—in my own personal opinion, it is responsible for someone, if you have differences of opinion, that you show both sides of it where the decisionmakers know that that disagreement is out there and they can do their own assessment.

Senator SESSIONS. I would just take a minute, Mr. Chairman. I would like to complete this line of thought.

So after they shared this with Mr. Tenet, they went over and shared the same findings that they had with the National Security Assistant, Mr. Hadley, now the National Security Advisor, and shared that. You say they presented an authoritative statement that these are the facts, I believe is what you said just a few moments ago. Is that the way you understood they presented it?

Mr. GIMBLE. That is the way I understood they presented it.

Senator SESSIONS. Did you talk to Mr. Hadley?

Mr. GIMBLE. He was interviewed as part of our process.

Senator SESSIONS. What about Mr. Libby?

Mr. GIMBLE. I stand corrected: He was not interviewed.

Senator SESSIONS. Mr. Hadley was not interviewed?

Mr. GIMBLE. Mr. Hadley was not interviewed.

Senator SESSIONS. So are you aware what was on the slides there that he presented to Mr. Hadley? This is what I see, I have been told, and I do not know—this is what I am told: He had on a slide when he made the presentation, "Fundamental problems with how Intelligence Community is assessing information."

Mr. GIMBLE. I believe that is correct.

Senator SESSIONS. So it seems to me that the essence of it is that he was raising with the National Security Advisor that their staff—and only the staffers went over, not even Mr. Feith—that they had found information they thought was important relating to the al Qaeda-Iraq connection, that had not been put in the Intelligence Community summary. Is that not correct?

Mr. GIMBLE. The correct version in my view is that there was a meeting to reconcile differences on August 20th before that meeting occurred. There were some changes on the intelligence side. It is my understanding that those briefing charts went over. There were a couple of additions that were not provided to Mr. Tenet and they were presented.

There were 26 points in the underlying buildup to the——

Senator SESSIONS. My time is up. I would just——

Chairman LEVIN. He can complete his answer.

Senator SESSIONS. All right. All right, go ahead.

Mr. GIMBLE. There were 26 underlying points that were in the underlying premise of the briefing, and there was over half of them that the Intelligence Community, the consensus of the Intelligence Community did not agree with. That does not, in my view, reflect in the charts that were presented.

Senator SESSIONS. But the Intelligence Community, after having been confronted with information that had not been previously included in their report, went back at Mr. Tenet's direction and made some changes that were positive and more accurate, did they not?

Mr. GIMBLE. I think there was probably some positive changes made.

Senator SESSIONS. My only conclusion is that these guys found some things they were concerned about, they shared it with the Secretary of Defense, they shared it with the CIA, they shared it with the National Security Advisor, and I do not think there was any confusion that they were trying to present themselves as authoritative intelligence officers based on this slide that they were using, which indicated they were just providing a critique about total reliance on those assessments.

As the Senator said, sometimes there is a little turf battle going on there perhaps. Finally, we know that the CIA is not always perfect because we did not find the WMD.

Chairman LEVIN. Thank you, Senator Sessions.

Senator McCaskill.

Senator MCCASKILL. Thank you, Mr. Chairman.

Mr. Gimble, to someone on this committee it may be beating a dead horse, but I am new and I have been out there watching this from afar over the last couple of years, and I am very interested in an important part of your report and that is the responses on the part of DOD. Whenever you do either a review as an auditor, or an audit, one of the most instructive things that you can learn,

having done hundreds and hundreds of these things, is how the agency responds to your report.

It is interesting to me that their first response is what is very common when you get a report that is uncomfortable for you if you are being looked at, is that you ought not enter opinions. I have looked at your report and there is no opinion in your report. It is a factual recitation of what did and did not occur, regardless of who was right or wrong on either side.

The other thing that is really interesting in their response is they are quick to say that they have nothing to do with intelligence activities. In fact, in their response they actually say by definition they have nothing to do with intelligence activities. As has been pointed out, accurately, by Senator Chambliss, this group did not gather intelligence, and this group in fact was supposed to be directing policy, and as part of their policy they were trying to learn about intelligence.

It would seem to me that the better people to know about what is right and wrong about intelligence is in fact the Intelligence Community that has gathered the intelligence. Does that not seem pretty basic?

Mr. GIMBLE. Yes, ma'am.

Senator MCCASKILL. So if I understand the time line here, this information is given to the head of the CIA, he then calls the Intelligence Community together, the gatherers of intelligence information, the people in our government that are responsible for intelligence. They have a meeting and say: 50 percent of what you are going to say we believe is wrong.

Mr. GIMBLE. That is correct.

[Additional information provided for the record follows:]

The Intelligence Community did not agree with 50 percent of the information forming the basis of the presentation.

Senator MCCASKILL. At that point in time, when the intelligence gatherers and the Intelligence Community tell what is admitted in this response, the policy people, 50 percent of what you are saying is wrong, they then did not share that with the National Security Council; is that what your report says?

Mr. GIMBLE. It does say that in this respect, is that the counterbalance of the full picture, they did not identify that. So they just presented what they had and they did not recognize that there was significant disagreement with the consensus within the Intelligence Community on most of the 26 points that they raised.

Senator MCCASKILL. They were, in fact, reporting to the National Security Council about intelligence matters, correct?

Mr. GIMBLE. I would characterize it as an alternative intelligence product. They characterize it as a critique of intelligence. It seems to me like there was a statement of: these are the issues we have and this is the connection, the analysis of the links, which run counter in many respects to the consensus in the Intelligence Community.

I do not think that is altogether bad. I think that can be useful. However, I think the problem that we had with it, as we say in the report, if you do that you need to present both sides of the issue to give a balanced presentation.

Senator MCCASKILL. Particularly if both sides are going to, in fact, include disagreements from the intelligence gatherers; is that a fair statement?

Mr. GIMBLE. I think that when you do a presentation on intelligence, you should give the full picture. If there are agreements and disagreements, you should identify them.

Senator MCCASKILL. Lay them out.

Mr. GIMBLE. Just lay them out on the table.

Senator MCCASKILL. As we move forward, because clearly in some respects there are mistakes that have been made, but the purpose of these hearings obviously is to try to make sure we do not make them again. Is there anything in the response from the policy folks at DOD that this report involves, is there anything in their response that would indicate to you as the IG that they acknowledge that this was not done correctly, that they acknowledge that in the future whenever there are differing opinions about an intelligence assessment when it relates to whether or not we go to war, that in the future they should always include both sides of the issue when it is given to the ultimate policymakers in terms of a recommendation of us going to war or not going to war?

Mr. GIMBLE. I think the proper way to look at that is there are policies and procedures in place in the Intelligence Community where you can identify and have disagreements, because it is a perfectly good thing to have disagreements and vet those out. The policies and procedures have been there for a number of years, that you vet those and then you move forward to get the best possible intelligence.

As the Senator pointed out, this is not——

Senator MCCASKILL. It is not a science.

Mr. GIMBLE. It is not a science; it is an art. So you get the best possible position. In my opinion, I think the processes are in place. These guys have to sign a tasking and they did it and they did it in my view as best they could. We do not argue with the fact they did it nor how they did it. What we are only pointing out is this, is that they come to a hugely different conclusion than what the consensus of the Intelligence Community was. That should have been, as you move that forward, expressly explained. Even though the people may have had information and should have had, we do not know that. The point is is that when you have something of this importance we think it is responsible to have both sides of the picture out there when there are disagreements if they cannot be vetted and come to a common agreement.

Senator MCCASKILL. My question to you, Mr. Gimble, is there anything in their responses that would indicate to you that they understand that that is an important part of this process that was not followed here and that should be followed in the future?

Mr. GIMBLE. No. They view that I have the wrong interpretation of what constitutes intelligence products. We just have a disagreement on that. I think the system will take, if properly followed—and I think it is being properly followed now—you would not have that.

Senator MCCASKILL. Do you believe that this would not happen now?

Mr. GIMBLE. I do not think it would, but this is a single incident in a universe of many, many decisions and intelligence reports and so forth that go forward. I do not have a crystal ball and I cannot tell you that everything is perfect. I think there is a system in place that will allow us to get the best intelligence information if it is followed in each and every case.

Senator MCCASKILL. I would be a lot more comfortable if their responses reflected that.

Thank you, Mr. Gimble.

Chairman LEVIN. Just to be clear, when you say the system is in place you mean now in place?

Mr. GIMBLE. It is in place. There has always been a vetting procedure. If you have it in the intelligence channels, the executive orders call it out. The DOD directives call it out. There is a process that you vet and can have legitimate discussion and disagreement. Also there is a legitimate way to bring that forward and say, okay, here is our best estimate, and it is based on if you have a disagreement, you lay those out. I think there is a process in place to do that, yes, sir.

Chairman LEVIN. Was that process then not followed?

Mr. GIMBLE. The part that we thought was inappropriate, we thought it was not followed because we thought there should have been a full reporting of both sides of the issue. Again, it goes back to we did not think there was anything illegal or unauthorized. We can clearly see that it was authorized by people in authority to authorize it and so we do not have an issue with that.

Chairman LEVIN. Thank you.

Senator Warner.

Senator WARNER. Thank you, Mr. Chairman.

Your work product is of no greater value than the thoroughness with which you perform the buildup to reach your conclusions, and I want to direct my questions to the process by which you reached your conclusions. You have indicated you did brief, debrief, Tenet and you did debrief Feith. Did you determine from those debriefings that there were a level of individuals beneath those two principals who may have had a diversity of opinion and that they then failed to disclose that diversity in such presentations that Feith made? Is that correct?

Mr. GIMBLE. There was a group of individuals under both. I believe that Secretary Feith knew what the position was. I think he knew both sides of the argument. I think the DCI, Mr. Tenet, knew both sides of it.

Senator WARNER. But we are focusing on Feith, though.

Mr. GIMBLE. Okay.

Senator WARNER. It was his failure to disclose evidence that you believe you now have that there was an honest difference of opinion on several or more significant issues leading to the conclusions that Feith presented; is that correct?

Mr. GIMBLE. That is correct.

Senator WARNER. Now, I am struck that you did not interview or debrief Hadley. First you said you did, which I assume is such an integral, important part of your presentation this morning that you did it. Then you had to reverse that. I find that somewhat trou-

bling because Hadley is a very significant and pivotal role player in this.

Can you explain how you made that mistake this morning?

Mr. GIMBLE. Sir, I would not categorize that as a mistake——

Senator WARNER. I beg your pardon. You have to speak a little more slowly and directly for me. Thank you.

Mr. GIMBLE. Senator, we requested an interview with Mr. Hadley. The lawyers at the National Security Council did not let us interview him. So we requested, and were unable to. Frankly, he is not a member of our Department, so we do not have any authority to interview.

[Additional information provided for the record follows:]

As a non-DOD organization, the NSC does not fall under our jurisdiction. We did not request an interview with Stephen Hadley during our review. We contacted Dr. Michele Malvesti, the Senior Director for Combating Terrorism, in hopes of interviewing her to obtain details on the NSC level decisionmaking processes. On June 7, 2006, we faxed a letter to NSC/OGC (Him Das) referencing the details of the review and our request to interview Dr. Malvesti. On June 23, 2006, Mr. Das informed us that after reviewing the information we sent, Dr. Malvesti said that she wouldn't have any pertinent information to add to our review. Mr. Das was also under the impression that our review was somehow related to GAO's review and declined based on the fact that NSC does not fall under GAO jurisdiction. We attempted to contact Mr. Das's supervisor, Brad Wiegman, however, we received no return call. On June 29, 2006, we spoke with Mr. Das again and were told that he did not think that Dr. Malvesti would participate in an interview with our office. No further action was taken after this phone call. Based on this incident with the NSC, we did not request an interview with Mr. Hadley.

Senator WARNER. I understand that, but the simple fact is you made a request. For whatever reason, on counsel's advice he declined. But this morning you said you did.

Mr. GIMBLE. That was my mistake.

Senator WARNER. A rather serious mistake about a very pivotal member of this administration. Anyway, you will accept that. You admit the mistake.

Now, my understanding is that Feith had pulled together in the DOD a cadre of presumably career civilians and military officers, some of whom were detailed to his staff from DIA; is that correct?

Mr. GIMBLE. That is correct.

Senator WARNER. Now, having had some significant experience for many years as Navy Secretary, I know how these things work in that Department. I have a high degree of confidence in the professionalism of those level of workers, be they military or civilian. Did you interview a wide cross-section of Feith's staff? I know in the report you gave a figure here.

Do you have any personal knowledge yourself of the degree or do you—shall we have this staff member testify?

Mr. GIMBLE. I am just getting a list of the people that we interviewed. [Pause.]

Senator WARNER. Can I be allowed a little additional time, given that it is taking the witness a period to get his testimony?

Chairman LEVIN. We will surely add that time. If it takes more than another minute, I will add 2 minutes.

Mr. GIMBLE. We did interview the members of Mr. Feith's staff.

Senator WARNER. How many were there?

Mr. GIMBLE. There was——

Senator WARNER. Perhaps, Mr. Chairman, we need to bring to the dais those persons that have this knowledge so that we can directly cross-examine them. Obviously the witness is not in possession of the facts that I——

Mr. GIMBLE. We have 72 names that I am trying to get to, Senator, and they are not all in the employ of Mr. Feith.

Chairman LEVIN. We will be happy to interview the people that have not been interviewed if you will give us the list. We have the list of the people who have been interviewed, so that we can check it out, and if there is any that have not been interviewed we will interview them. We are going to be interviewing a lot of folks, including, I hope, by the way, people who have refused to talk to you, because I think we will indeed want to talk to Mr. Hadley. We will indeed want to talk to the chief of staff of the Vice President. We will indeed want to talk to people who you have not been allowed to interview, or who you failed to interview. So those interviews will take place.

Senator Warner, we agree with you that if those names are submitted to us, we will check them out; and if there are any there that are missing, we will add those to the list.

Senator WARNER. Mr. Chairman, the point I am trying to make is that these are serious allegations and I want to have a better understanding, and I think this committee does, of the process and the thoroughness with which the investigation was conducted to reach these important conclusions.

Now, again, in the interviews of those staff members, did any of them indicate that they gave their work or performed it under pressure contrary to the exercise of their own free will?

Mr. GIMBLE. They did not, Senator.

Senator WARNER. They did not what?

Mr. GIMBLE. Were not pressured to perform or come to any preconceived conclusion, and that comes across the consensus of the interviews that I have looked at.

Senator WARNER. They were able to give their best professional advice to Secretary Feith and his principal assistant; is that correct?

Mr. GIMBLE. That is correct.

Senator WARNER. Now, you have allegations to the effect that when presentations were made, either by Feith or his senior staff, that you find fault in that they did not provide the opinions which were somewhat contradictory or at variance to the principal points they were stressing; is that correct?

Mr. GIMBLE. That is correct.

Senator WARNER. Now, at that point in time did any of these subordinate staff members, whom I accept for the moment as being people of integrity, try to bring to anyone's attention that they felt that their work product was being inaccurately portrayed to principals, by their principals to others?

Mr. GIMBLE. We did not see evidence of that.

Senator WARNER. Did you inquire, because I have to believe, given the number of presentations that were made by either Feith or his staff, that sooner or later the subordinates were of the opinion that the whole story was not being told. Did you make that inquiry?

Mr. GIMBLE. We made the inquiry to see—we believe that all the staff that was assigned to Mr. Feith did in good conscience do what they thought was right, and they had a position and they probably disagreed with the counterposition. All we are pointing out is there are two groups of people that are professional and well-intentioned and hard-working servants of the government and they had differing conclusions.

The process for intelligence, though, is you should marry those differences up and reconcile them and vet them, and that is what we think did not occur here.

Senator WARNER. I cannot believe that these persons, a number of them—there is what, 30 or 40 of them?

Mr. GIMBLE. We interviewed 72.

Senator WARNER. 72. That someone within that group or some individuals would not say——

Mr. GIMBLE. 72 is——

Senator WARNER. Beg your pardon?

Mr. GIMBLE. 75 was the total interviews. They did not all work for Mr. Feith.

Senator WARNER. All right. But do you get my point? I am trying to suggest that people with good intentions at those levels, they have their own self-respect and their own interest in America to see that things are being handled right.

Now, you said that some of those staff or some members of Feith's staff did some of the briefing as opposed to Feith, which means that staff were involved, and they intentionally, I presume, did not bring forward the dissenting opinions.

Mr. GIMBLE. The briefings, I think you have all seen the three sets of charts. They speak for themselves. They made their position. All we are saying is there were other positions behind the underlying analysis, that there was considerable disagreement with the very community that were charged with providing intelligence.

This is not to say that alternative intelligence is not a viable thing to do. We certainly agree that it is. However, when you have a disagreement, our position was it should be put into the briefing when you make the presentation.

Senator WARNER. I understand that, but someone or some several people made a decision not to include the dissenting opinions. Was that done by Feith personally or was it done by subordinates or some of these professionals, the structure that worked with him?

Mr. GIMBLE. There is a memo out that we can provide to you. It says that we do not have to have a consensus.

Senator WARNER. All right, this is new evidence. Where is this memo and who issued it and what is the date-time group of it? It is obviously not classified?

Mr. GIMBLE. It is not classified. It is dated August 8, 2002.

Senator WARNER. August what?

Mr. GIMBLE. August 8, 2002. "Today's Briefing" is the subject, a memo from Paul Wolfowitz, to Tina Shelton, Jim Thomas, Chris Carney, Abe Shulsky, cc: Doug Feith:

> "This was an excellent briefing. The Secretary was very impressed. He asked us to think about some next possible steps to see if we can illuminate the differences between

us and the CIA. The goal is not to produce a consensus product, but rather to scrub one another's arguments."

"One possibility would be to present this briefing to senior CIA people with their Middle East analysts present. Another possibility would be for the Secretary and the DCI to agree on setting up a small group with our people combined with their people to work through those points on which we agree and those points on which we disagree, and then have a session in which each side might make the case for their assessment.

"Those are just suggestions. I would very much like to get some ideas from you when I get back sometime after August 19."

Senator WARNER. We will need to have that, Mr. Chairman.

You are reading from a book marked "SECRET," are you not, on the top?

Mr. GIMBLE. We have it bookmarked.

Senator WARNER. I beg your pardon? We are very careful about classified material on this committee.

Mr. GIMBLE. We have SECRET material in here, but that particular document——

Senator WARNER. It is commingled classified and unclassified?

Mr. GIMBLE. We have classified and unclassified.

Chairman LEVIN. We will make that part of the record.

Thank you.

[The information referred to follows:]

MEMO TO: Tina Shelton
Jim Thomas
Chris Carney
Abe Shulsky

DATE: August 8, 2002

CC: Doug Feith

FROM: Paul Wolfowitz PW

SUBJECT: Today's Briefing

That was an excellent briefing. The Secretary was very impressed. He asked us to think about some possible next steps to see if we can illuminate the differences between us and the CIA. The goal is not to produce a consensus product, but rather to scrub one another's arguments.

One possibility would be to present this briefing to senior CIA people with their Middle East analysts present. Another possibility would be for the Secretary and the DCI to agree on setting up a small group with our people combined with their people to work through those points on which we agree and those points on which we disagree, and then have a session in which each side might make the case for their assessment.

Those are just suggestions. I would very much like to get some ideas from you when I get back sometime after August 19.

Senator WARNER. Are there other pertinent parts of this briefing book which the committee does not have at this time?

Mr. GIMBLE. I am not sure what you have. But I would be more than happy, we can go back in closed session and let you review it.

Senator WARNER. If you will see that that is done, Mr. Chairman.

Chairman LEVIN. What we will do is also, we are going to ask you to provide us all of the unclassified material that is in your report in a single document or to give us the report redacting the classified material, one or the other, because most of that report that you have marked "Classified" is unclassified.

[See ANNEX A]

Senator WARNER. Now, back to the witness again——

Chairman LEVIN. I think we have to go back to our time here, Senator Warner.

Senator WARNER. Could I just ask one single additional question, Mr. Chairman, because I had quite a few interruptions?

Your conclusions are reached on the basis of a number of briefings given either by Feith or his staff to principals within our executive branch, correct?

Mr. GIMBLE. Right.

Senator WARNER. Do you know whether or not you have had the opportunity to examine all the briefings or, if not, how many of the

briefings, and for what reason did you not if you did not do all of the briefings?

Mr. GIMBLE. We examined each of the three briefings in question.

Senator WARNER. Are there only three briefings in question?

Mr. GIMBLE. The three briefings that—we have all the underlying data that builds up to that, but that is the three——

Senator WARNER. Let me—I am having difficulty listening to what you say. What again?

Mr. GIMBLE. The basic issue and thrust of our report deals with the events that were captured in three briefings that went, one to the Secretary of Defense; to the DCI, Mr. Tenet; and then subsequently to the National Security——

Senator WARNER. Were there other briefings?

Mr. GIMBLE. We have a lot of documentation, but these are the briefings that we were focused in on.

Senator WARNER. But if we are going to judge three, it seems to me in fairness you might judge other briefings so that you have the full context and spectrum of the briefings?

Mr. GIMBLE. These are the briefings that when we did the tasking of this particular task it evolved out to be these three briefings, and there's a host of other reports, memorandums. We have many, many pages of documentation that we went through. But when it all boiled out to where you were pushing things forward, it was captured in three briefings.

Senator WARNER. In any of this other documentation or to the extent you examined other briefings, did you find a similar pattern of what you characterize as intentional deception by virtue of not including contradictory views?

Mr. GIMBLE. We did not classify anything as intentional deception. What we just said is there was an omission that we thought should have been in there to give the balance.

Senator WARNER. So it was an error of judgment, then, by the principals, a good faith error of judgment?

Mr. GIMBLE. One could categorize——

Senator WARNER. Or an intentional deception?

Mr. GIMBLE. I would not—I do not know whether it was intentional or whether it was good faith judgment. That is not my position that I would have a thought on that. All I can tell you is that at the end of the day when those things went forward there were two sets of facts out there. One of them got passed over and it happened to be the one that is in the very community that we look to to have this kind of information.

Senator WARNER. I know my time is up. I thank the chair. But I do have serious reservations about the manner in which it was conducted and the thoroughness, and I do hope that——

Chairman LEVIN. The manner in which what was conducted?

Senator WARNER. The manner in which this investigation was conducted and the thoroughness of it. I do hope——

Chairman LEVIN. We will make up for any shortfalls. You can be very sure we will take up your suggestion that any shortfalls in this investigation will be made up for by this committee.

Mr. Gimble, you talked about three different presentations. There were three versions, three different versions of the same presentation, is that correct?

Mr. GIMBLE. That is what I was referring to.

Chairman LEVIN. All right. So instead of telling the CIA when this assessment was given to the CIA that the Feith operation had "fundamental problems with how the Intelligence Community is assessing information"—that is the title of a slide which was presented to the White House—that slide was left out, was it not, when this assessment was given to the CIA?

Mr. GIMBLE. It was left out.

Chairman LEVIN. Now, you can say that was a matter of judgment. You can say that was unintentional. It is damn suspicious to me that if you are giving them an assessment that disagrees in a number of respects with theirs, but leave out a slide that says you have fundamental problems with how the Intelligence Community is assessing information and you remove it when you are talking to the CIA, and then you reinsert it when you present the same assessment to the White House, that is mighty bloody suspicious.

Now, I know, that is not your job, to assess suspicion.

Senator SESSIONS. Suspicion of what?

Chairman LEVIN. Suspicion of intent.

Senator WARNER. But it was his job to determine under what circumstances and who made the decision.

Chairman LEVIN. I agree. I could not agree with you more, and we are going to talk to Mr.—if you have not asked Mr. Feith why that was left out—have you?

Mr. GIMBLE. We did.

Chairman LEVIN. You did?

Mr. GIMBLE. We did, yes, sir.

Chairman LEVIN. What did he say?

Mr. GIMBLE. He said it was left out because it was critical of the Intelligence Community.

Chairman LEVIN. Oh, he intentionally left it out. There you go. How is that for intention? That is not——

Senator WARNER. Wait a minute. Can we allow the witness?

Chairman LEVIN. He intentionally left out this slide.

Senator WARNER. Well, anyway——

Chairman LEVIN. Wait a minute.

Senator WARNER. Can we have order?

Chairman LEVIN. Yes, we are going to have order here.

Mr. Gimble, did Mr. Feith say he intentionally left out this slide when presenting this to the CIA?

Senator WARNER. Can we have the witness that interviewed Feith address us?

Chairman LEVIN. No, I will first ask Mr. Gimble and then he can refer to her if he wishes, and we will ask her to identify herself.

Mr. Gimble, did Mr. Feith tell you or your staff that he intentionally left this slide out because it was critical of the CIA?

Mr. GIMBLE. He said it was left out because it was critical of the Intelligence Community.

Chairman LEVIN. Okay. That is all I said.

Senator SESSIONS. Of course.

Chairman LEVIN. Now it is "of course." Before there was a question of what is the relevance as to whether it was intentional or not intentional. The point is it was intentional.

Now, Mr. Gimble, was this slide reinserted when this assessment was given to the White House?

Mr. GIMBLE. It was reinserted.

Chairman LEVIN. Next question: When this assessment was made, one of the statements that was made about the meeting in Prague, was it not, in something called "Summary of Known"—"Known"—"Iraq-al Qaeda Contacts," that "2001, Prague, IIS"—that is the intelligence service—"Chief al-Ani meets with Mohammed Atta in April"? Flat-out statement, right; is that correct? Am I reading correctly from that slide?

Mr. GIMBLE. Yes, sir.

Chairman LEVIN. Now, at the same time—this is not 2006; this is September 2002, the exact same time when this slide show was being presented to the White House—was it not true that the Intelligence Community in its report called "Iraqi Support for Terrorism," they had assessed that—excuse me, I am sorry. In January 2003, January 2003, that the CIA assessed that "The most reliable reporting to date casts doubt on this possibility"?

Mr. GIMBLE. Yes, sir.

Chairman LEVIN. Pardon?

Mr. GIMBLE. Yes, sir.

Chairman LEVIN. Thank you.

We are going to have a 6-minute round here, by the way.

Now, the reason we are here—and that question was raised, why are we here—is it not true that we are here because the then-chairman of the SSCI, Senator Roberts, asked you to undertake this investigation? Is that correct?

Mr. GIMBLE. He asked me—at that time the IG—it was not me. But he asked our office to undertake——

Chairman LEVIN. I mean your office.

Mr. GIMBLE. Yes, sir.

Chairman LEVIN. Your office was asked to undertake this investigation by the SSCI chairman, is that correct?

Mr. GIMBLE. That is correct.

Senator WARNER. Might the record show he was at that time also a member of this committee. Senator Roberts was a member of both committees.

Chairman LEVIN. The record will show that.

Senator WARNER. As chairman I was aware and supported his inquiry on this matter.

Chairman LEVIN. The record will reflect that statement.

Now, we asked—I asked you to investigate whether the policy office undercut the Intelligence Community in its briefing to the White House with a slide that said there were fundamental problems with the way the Intelligence Community was assessing the relationship between Iraq and al Qaeda. Is it true that your report on page 33 confirms that in fact it did in that manner undercut the Intelligence Community?

Mr. GIMBLE. Yes, sir, that is what our report says.

Chairman LEVIN. Now, the 9/11 Commission report—this goes to a different report—discusses a meeting of what they call the Presi-

dent's war council that took place at Camp David on September 15–16, 2001, just days after the September 11 attacks. The report states that a DOD paper produced for that meeting "argued that Iraq posed a strategic threat to the United States. Iraq's longstanding involvement in terrorism was cited."

Now, a footnote in that September 11 report cites a September 14, 2001, DOD memo from the Feith office titled "War on Terrorism, Strategic Concept." That report, according to the 9/11 Commission, was presented to the President at Camp David 4 days after September 11.

Did you review the September 14, 2001, DOD memo prepared by Secretary Feith?

Mr. GIMBLE. I do not believe we reviewed that.

Chairman LEVIN. Did you try to review that?

Mr. GIMBLE. I am just not familiar with that document, Senator.

Chairman LEVIN. We will ask the Secretary of Defense for a copy of the September 14, 2001, Feith memo which, according to the 9/11 Commission report, was discussed at Camp David on September 15 and 16, 2001. We will ask that, not of you, but of the Secretary of Defense.

My time is up.

Senator WARNER. Mr. Chairman, could the chair ask that this memorandum which is in question, and that was read by the witness, now be duplicated and given to the members of the committee so that in our next round we might have the benefit of that?

Chairman LEVIN. Absolutely.

Senator WARNER. I think it would be helpful.

Chairman LEVIN. You know exactly what document Senator Warner is talking about?

Mr. GIMBLE. Yes, sir.

Chairman LEVIN. Senator Chambliss.

Senator CHAMBLISS. Mr. Gimble, let us go back to this infamous slide here. You said that it was omitted from the DCI briefing because it was critical of the Intelligence Community. Is that correct?

Mr. GIMBLE. That is what Secretary Feith provided us in writing, yes, sir.

Senator CHAMBLISS. So he admitted that was the case. Now, even without that omitted slide, did you form a conclusion that it was very clear from the overall content that the draft briefing was suggesting insufficient attention and analysis by the Intelligence Community to a number of intelligence reports on contacts between Iraq and al Qaeda? Is it not also correct that you concluded that that point was explicitly made at a subsequent meeting at the CIA on August 20, 2002?

Mr. GIMBLE. I kind of got lost in your question.

Senator CHAMBLISS. Did you make any conclusion about the content of the briefing as it related to contacts between al Qaeda and Iraq even without the slide that was left out of the briefing of the DCI?

Mr. GIMBLE. Senator, we did not conclude one way or the other. The only thing we concluded, that there were differences of opinion that were not reported and not reconciled, and our position was that those differing opinions with the consensus of the Intelligence Community should have been included and they were not included.

Senator CHAMBLISS. Okay. Now, with all due respect to my colleague from Missouri, you do have opinions in this report. Did you conclude that there was anything illegal about what Mr. Feith's office did?

Mr. GIMBLE. We concluded there was nothing illegal. We also concluded there was nothing unauthorized.

Senator CHAMBLISS. You then went on to conclude that it was inappropriate, and as I understand what you have said is that it was inappropriate because alternative views within the Intelligence Community were not included?

Mr. GIMBLE. That is correct.

Senator CHAMBLISS. Now, Mr. Gimble, can you tell this committee that every time the DCI gets a briefing that every alternative view on the issue that he is being briefed on is presented to him?

Mr. GIMBLE. No, sir. I usually do not deal much with the DCI. I am a DOD person. So I cannot tell you that.

Senator CHAMBLISS. Let us go to DOD. Can you tell this committee that every time the Secretary of Defense is briefed on an issue that every possible alternative view is given to him?

Mr. GIMBLE. I certainly cannot.

Senator CHAMBLISS. You could criticize every single briefing that is given to the Secretary of Defense if that is not the case, could you not?

Mr. GIMBLE. We only looked at this one set of briefings, this one briefing that was presented in three versions, and we are reporting what happened on that briefing. There were significant disagreements. The disagreements were not posed and presented at the same time. We thought that was inappropriate, and you are right, I do have an opinion, and that was my opinion.

Senator CHAMBLISS. Lastly, it has been communicated to me that one of the members of your staff told a person that was being interviewed during the course of this investigation that because of the political nature of this inquiry that your office was going to have to balance the results and that the final report was going to have something for everyone.

Are you aware of those comments?

Mr. GIMBLE. No, sir, I am not aware of those comments and I would be very interested in who made them and who they made them to.

Senator CHAMBLISS. Is it appropriate for your staff to take political sensitivities into account when drafting a report?

Mr. GIMBLE. No, sir. We take the facts and we try to bring them down to an objective conclusion, and that is what we did in this report.

Senator CHAMBLISS. Thank you, Mr. Chairman.

Chairman LEVIN. Thank you very much, Senator Chambliss.

Senator Webb.

Senator WEBB. Mr. Gimble, I want to clarify something that goes to the exchange that Senator McCaskill had with you and that Senator Chambliss just mentioned to you. My understanding from reading your summary here is that when there was a finding of the inappropriate nature of this activity it was not simply that it failed to mention alternate views, that it was specifically and as you

said—and I quoted you in the earlier round—that in some cases—I think you were being very careful how you answered that—in some cases this information was being shown as intelligence products from an office that is a policy office, rather than an evaluation, an assessment of intelligence products. Was that correct?

Mr. GIMBLE. That is correct.

Senator WEBB. So it is something more than simply not presenting both sides. It is a policy office that is not an intelligence office presenting information as an intelligence product.

I want to say something else, too, in defense of your report to the extent that it now exists. There has been a lot of conversation here about Mr. Feith, but you specifically said in a comment to the chairman here that, although Mr. Feith is mentioned in the review, he is not the subject of the review; the review is focused on the organization. I think that is very important for us to continue to understand here.

This is not a report that was directed specifically at Mr. Feith. It was directed at the office, the total office, and in fact how DOD at this level was evaluating information and presenting it in the run-up to the Iraq war. Would you agree with that?

Mr. GIMBLE. Senator, yes, I would agree with that. It was not directed at any one individual. It was a review of the facts surrounding an issue, a fairly narrow-scoped issue, and it is how intelligence is——

Senator WEBB. I think that is important from my perspective here, too. I am not sitting here in direct condemnation of one individual. I have concerns, as I mentioned, about how this information was presented, and Mr. Feith will have to accept accountability for his part in this, but this is not directed at him personally.

It would seem to me, just from listening to the exchange, obviously not having been on this committee in the preceding years, that the two agreed-upon—perhaps there are others; my esteemed senior Senator from Virginia might raise others—but the two most glaring weaknesses in this report seem to be that Mr. Feith was not interviewed under oath, given some inconsistencies, and that people such as Mr. Hadley declined to be interviewed at all. Neither of those omissions would seem to argue in favor of a report that further excused the conduct in this office.

Mr. Chairman, that is all I have to say.

Chairman LEVIN. Thank you.

Senator Sessions.

Senator SESSIONS. It seems to me that the only thing that would justify a conclusion that you have made would be the briefing to the National Security Assistant, Mr. Hadley, because surely there is nothing wrong with a group of people in DOD going to the Secretary of Defense and saying that they are concerned about the CIA product because it left out some things that they have discovered in their evaluation of the supporting data.

Would you agree?

Mr. GIMBLE. I think internally in the DOD it is okay to have dissenting views and have discussion. When you disseminate those, when you take it out, and I would say that when you take an alternate intelligence assessment outside the Department——

Senator SESSIONS. You answered my question.

Chairman LEVIN. Can he just finish?

Senator SESSIONS. No, he is going on to something else I did not ask, Mr. Chairman. I asked him was it wrong to share it and he said there was not anything wrong to share that with the Secretary of Defense.

Now my next question is, if you have a complaint with the CIA and you go and meet with the Director of the CIA and his staff and you raise those same complaints, is there anything wrong with that briefing?

Mr. GIMBLE. The next part of that is, though, is when he calls together the community to vet this out and then you vet it out and then you carry the briefing further and——

Senator SESSIONS. Then you are answering my question. There is nothing wrong with saying that to the CIA Director. The result of that——

Chairman LEVIN. Why don't you allow him to finish the answer to that question?

Senator SESSIONS. You can interpret it as you want to, Mr. Chairman. I see it as a defensive answer, not responsive to a plain and simple question.

Go ahead. Yes or no, is it okay to brief the CIA on the problems you have with their work product?

Mr. GIMBLE. It is okay to brief, but remember he took the chart out saying they had a problem.

Senator SESSIONS. We are getting to that.

Now, the next briefing is the one you complain about, right? That is the one to the National Security Advisor. You contend that in that briefing he did not give a full analysis of the CIA's competing views.

Mr. GIMBLE. That is correct.

Senator SESSIONS. Forgive me if I think that is pretty weak. Here Mr. Wolfowitz, Assistant Secretary of Defense, right after the briefing to the Secretary of Defense said, we need to meet with the "senior CIA people with their Middle East analysts present. Another possibility would be for the Secretary and the DCI to agree on setting up a small group with our people combined with their people to work through those points on which we agree and those we disagree."

Is that not a responsible way to deal with a problem of a very important issue?

Mr. GIMBLE. It is absolutely a very responsible way, and when they did that and then when they had the meeting on August 20, the next line of briefing they chose to ignore those things that were discussed. Then the points that were made of disagreement, I think it would have been responsible to provide the decisionmakers with that alternate position.

Senator SESSIONS. All right. Now, so the next event that occurred was that they were asked, these staffers—as Senator Warner has pointed out, these are professionals; you have not doubted their integrity or their honest belief in what they discovered. They were asked to go and share this information with Mr. Hadley and Mr. Libby and they presented their information on a slide titled "Fundamental Problems with How the Intelligence Community Is Assessing Information."

Now, that seems to me that they are sharing some concerns that they have with the National Security Advisor that he may not be getting full and complete information from CIA. One of these little turf battles, but in an important matter sometimes.

Mr. GIMBLE. I do not disagree with that. It would seem to me, though, that if you were going to make that presentation you do a full-blown, this is one side, this is the other side.

Senator SESSIONS. He was presenting the problems, it seems to me if you read this. Surely Mr. Hadley was not unaware that the CIA's consensus report presumably was different, else he would not be pointing out what the differences were.

Mr. GIMBLE. I am not aware what Mr. Hadley knew or did not know.

Senator SESSIONS. This is important because is it not true that Mr. Feith, he did not even go to this briefing with Mr. Hadley? His professionals, these young folks who dug up this information, made the briefing.

Mr. Feith contends vigorously, does he not, and his staff that the purpose of that briefing was not to state an intelligence estimate, but to point out problems with the analysis they were working from? Is their defense to your complaint that?

Mr. GIMBLE. Our interpretation of that was, and it is my opinion, that——

Senator SESSIONS. Wait a minute. No, I say isn't their position? You stated it earlier. Is it not their position that they were not stating an intelligence estimate; they were pointing out problems with the CIA product?

Mr. GIMBLE. One slide made that point.

Senator SESSIONS. All right, they made that point. They shared that with you when you asked them about what was going on, did they not? You said that earlier in your remarks.

Mr. GIMBLE. We had full access to all information, yes, sir.

Senator SESSIONS. Mr. Gimble, in your remarks earlier at this meeting you indicated that their concern with your report about whether what they did was appropriate or not was that you did not seem to understand that they were not presenting an entirely new work product to the Assistant National Security Advisor, but they were pointing out problems with the CIA work product.

Mr. GIMBLE. The remainder of that comes to some pretty hard, pretty definitive conclusions about intelligence. So you can say, yes—if they want to characterize this as a critique, but it also is characterized as an alternate intelligence product.

Senator SESSIONS. You have concluded that. Now, the people at the briefing did not agree with that, and Mr. Hadley has not been interviewed. So how have you made that conclusion?

Mr. GIMBLE. Got a copy of the report, the briefing, and we have interviewed the people that put it together. We have looked at the degree of disagreement within the community and how that was handled. That is really our issue, is the degree of disagreement and as to how it was handled.

Senator SESSIONS. I do not see a problem with it. To me it is right up on top.

Then Senator Levin says that this somehow undercut the Intelligence Community. I do not see how it is undercutting the Intel-

ligence Community—correct me if I am wrong—if you point out things they left out that should have been in their analysis, and that after they made these references a number of them were put in that report, including the Atta report. Was the Atta report from the Czech Republic that he had met with the Iraqi intelligence group in the CIA report before it was dug up by Mr. Feith's professional staff?

Mr. GIMBLE. It has been in a number of reports. The issue there is that——

Senator SESSIONS. No, no, no, no, no.

Mr. GIMBLE. The issue is that briefing came to some conclusions that were not supported by the underlying Intelligence Community assessments. That was our point.

Senator SESSIONS. Is there anything wrong with another group going in to Mr. Hadley and saying, we have some disagreements, we have read all these documents, we found things they left out and we are not in agreement with it?

Mr. GIMBLE. It was not characterized that way. If you look at the briefing charts, it was characterized as here are the conditions and conclusions, and there was no thought about where the same view is.

Senator SESSIONS. The whole point was that they were raising concerns with the CIA's analysis. It is obvious, it is a given, that they were providing information that was somewhat in disagreement with parts of the CIA analysis, surely.

Mr. GIMBLE. We are looking in June. There was a statement in the CIA reports that says that this was contradictory.

Senator SESSIONS. I will ask you one more time. I think it is important. The CIA consensus opinion at the time this all began to occur did not include reference to the Czech Republic matter, is that correct? It did not?

Mr. GIMBLE. It is incorrect.

Senator WARNER. Are we getting testimony from a witness who has not been identified?

Chairman LEVIN. Let us identify the lady to your left, please.

Mr. GIMBLE. This is Commander Tammy Harstad. She is one of our senior analysts.

Chairman LEVIN. Do you want to just say whatever you were saying?

Senator WARNER. She could just grab the other microphone there and then both of you can have a mike.

Thank you. We welcome you, Commander. Obviously, as a naval person I can see that you have had quite a distinguished career.

Chairman LEVIN. Can you give us the answer you were giving us, Commander?

Commander HARSTAD. Yes, sir. The reports of the meeting, the Czech report——

Senator WARNER. I am not able to hear.

Chairman LEVIN. Can you talk a little louder, please?

Commander HARSTAD. Yes, sir.

The report, the Czech report of the meeting, was in a CIA product in June 2002, prior to the production of the briefings.

Senator SESSIONS. Prior to—well, it was, obviously, because it was found by these people in Mr. Feith's office. But was it in their consensus analysis, because they had some doubt about it?

Commander HARSTAD. It was described as being contradictory at best.

Senator SESSIONS. In the analysis that Mr. Hadley would have had?

Commander HARSTAD. I do not know, sir, what Mr. Hadley would have had. That was what was in the CIA product on June 21.

Chairman LEVIN. Of what year? Sorry. What year?

Commander HARSTAD. 2002.

Senator SESSIONS. It is pretty obvious, would not you agree, that the Feith staff presented to Mr. Hadley information that came out of either raw reports or CIA summaries and DIA information, that put a different context on some of the matters relating to the Iraq-al-Qaeda connection or lack of it?

Commander HARSTAD. Yes.

Senator SESSIONS. I do not see how that is inappropriate, and I do not believe they are required to present the whole CIA conclusion before you present a contrary conclusion when people, everyone hearing, would have known that this represented a divergent view from the CIA. I think not only has Mr. Feith not violated a law, as you found, that he acted with authority, but I think he acted appropriately. I do not believe the CIA has an absolute right and a monopoly on conclusions about intelligence.

Chairman LEVIN. Thank you, Senator Sessions.

Senator Warner.

Senator WARNER. Thank you, Mr. Chairman.

Could the witness remain that was testifying. I may have a question for you. Thank you.

But first, Mr. Gimble, I have the highest respect for the whole IG system. I collaborated with the preparation of the various bills and so forth to establish the laws. For the some many years that I have been on the committee with our distinguished chairman—we are in our 29th year—we have seen and dealt with many very able IGs. So in no way am I trying to discredit in any way your professionalism.

But this is such an important case that we have to bear down and determine just what procedures you used and so forth.

Would you say, given—and you have had a long career. How many years in the IG?

Mr. GIMBLE. In the IG, I was moved over in 1976, and that was before——

Senator WARNER. You have to talk—I am sorry.

Mr. GIMBLE. I have been with the DOD IG since the day it was formed and I was in the predecessor organization before that. So I have over 35 years.

Senator WARNER. Thirty-five years, and we have dealt together in the years past and I have a high respect for your professionalism.

Would you regard this as one of the most important cases that you have dealt with?

Mr. GIMBLE. I would.

Senator WARNER. Fine.

Did you personally interview any of the witnesses, the principal witnesses, given the importance and the criticality of this?

Mr. GIMBLE. I did not.

Senator WARNER. So you delegated all of that to others?

Mr. GIMBLE. Right.

Senator WARNER. Secretary Rice was then the head of the Security Council. Were her views sought?

Mr. GIMBLE. We did not attempt to interview her.

Senator WARNER. Beg your pardon?

Mr. GIMBLE. We did not attempt to interview her.

I just need to make a quick point. When we get outside of DOD employees, it is if they want to be interviewed we can. We do not really have any authority to interview anybody outside the Department. So we would not necessarily have any authority to interview her.

Senator WARNER. Could you go to others to try and see whether or not they could induce various principals to——

Mr. GIMBLE. We have had some——

Senator WARNER. You could go to the Secretary and say, Mr. Secretary, you are a part of the Department in which he operates, I would like to interview some witnesses, but I am having difficulty; would you assist me in getting those witnesses?

Mr. GIMBLE. We interviewed a lot of people outside the Department and got, we thought, good cooperation. We just did not attempt to interview Secretary Rice.

Senator WARNER. Did you interview Secretary Wolfowitz?

Mr. GIMBLE. We did.

Senator WARNER. Now, this very able commander, your portfolio, you were detailed to the IG's office, is that correct?

Commander HARSTAD. Yes, sir. I transferred there.

Senator WARNER. Now, you did a lot of the interviews and debriefings of these principals yourself?

Commander HARSTAD. I did several——

Senator WARNER. A little louder.

Commander HARSTAD. Yes, sir, I did participate in——

Senator WARNER.—I have a cold and some of the medicine has impaired the hearing. What is that again?

Commander HARSTAD. I did participate in some of the interviews.

Senator WARNER. Which ones did you——

Commander HARSTAD. None of the principals that you would expect.

Senator WARNER. Who did the principals?

Commander HARSTAD. We had representation from our former team chief, and also Office of the General Counsel went on several of those interviews as well.

Senator WARNER. So perhaps, Mr. Gimble, you want to clarify. Who were the principals under your jurisdiction that did the actual interviews of the principals?

Mr. GIMBLE. Most of the interviews were done by Lieutenant Colonel Eddie Edge, who is——

Senator WARNER. Is he present today?

Mr. GIMBLE. He is not.

Senator WARNER. Fine. The question that—wait a minute. You are getting advice from your colleague. Did you want to get more information? I hear him speaking to you. Did you finish your answer?

Mr. GIMBLE. We were just talking about where Eddie was.

Senator WARNER. Beg your pardon?

Mr. GIMBLE. We were just talking about where Lieutenant Colonel Edge is. He is in the process of retiring. So that is the reason he is not here.

Senator WARNER. I see.

Commander, let me just ask you a question. No one is questioning any patriotism. It seems to me we are questioning judgment, and the issue was why did certain individuals make the decision not to make full disclosure of dissenting perspectives on these critical intelligence questions. Do you agree that is the issue before us this morning?

Commander HARSTAD. Why did certain——

Senator WARNER. I guess my question is, having listened very carefully, and I have seen at least a dozen exchanges between you and Mr. Gimble, which is fine—I have occupied that seat in years past when I was Secretary of the Navy and I know you have to rely on staff. But there was an unusual number of consultations. Do you have any information with which you could give this committee to explain why this material was intentionally withheld in the various briefings we have talked about?

Commander HARSTAD. I do not think I know anything that would answer that question, sir.

Senator WARNER. Do you know of any individual within the staff that might have knowledge, Mr. Gimble's staff, that could help this committee understand why certain materials were deleted during these critical briefings?

Commander HARSTAD. As far as why the fundamental issues slide was deleted from the DCI brief——

Senator WARNER. Yes.

Commander HARSTAD. —that I am certain, because Mr. Feith submitted a written statement to us prior to his debrief or his interview, and in that statement——

Senator WARNER. Is that the statement that we are referring to today?

Commander HARSTAD. No, sir.

Senator WARNER. It is another statement?

Commander HARSTAD. It is other than what you have in front of you there, sir.

Senator WARNER. This is a document?

Commander HARSTAD. Yes, sir. It is a——

Senator WARNER. Does the committee have possession of this document?

Commander HARSTAD. Probably not, but it is unclassified and can be provided.

Senator WARNER. Do you know where it is?

Commander HARSTAD. Yes, sir. It is in our building.

Senator WARNER. But it is not here in the hearing room today?

Commander HARSTAD. No, sir.

Senator WARNER. Could we have that document?

Chairman LEVIN. Of course.

Are you able to quote from that document?

Senator CHAMBLISS. We have that document.

[See ANNEX B]

Commander HARSTAD. Pretty close, sir. Mr. Feith has said in a number of different letters as well that the reason that slide was removed is because it was critical in tone and it may distract from the dialogue between the analysts. He's said that more than once, in writing.

Senator WARNER. We will need to explore that, Mr. Chairman.

I think the chair is anxious to go to the second part of this hearing; is that correct?

Chairman LEVIN. We are anxious, but we also have a few additional questions which we are going to ask. Each of us can perhaps take a couple minutes.

First of all, you made reference to the fact that the Czechs reached a conclusion in 2006 that the meeting did not take place as a matter of conclusion. I would urge you to go back, look at the classified material, because I think you are wrong on that. They suggested or reached a conclusion long before 2006. But it is classified as to when exactly they did reach it, so we would ask you to review for the record the time at which, the point at which the Czechs concluded that the meeting did not exist. This is just a statement and a request.

[The information referred to follows:]

Our response to the request from Chairman Levin is classified (Secret/NOFORN) and has been provided to the committee as an attachment to the question for the record (submitted by Chairman Levin) regarding the Feith briefing on the Atta meeting.

Chairman LEVIN. Second, you indicated that at the meeting following the slide presentation that there then was, I believe—the date where the 26 points were identified, the date of that meeting with the CIA personnel, what was the date of that?

Mr. GIMBLE. August 20, 2002.

Chairman LEVIN. They identified the 26 points where they disagreed with perhaps half of what the presentation said; is that correct?

Mr. GIMBLE. That is correct. But the 26 points were ferreted out before then. This was the meeting that occurred after the briefing with Mr. Tenet.

[Additional information provided for the record follows:]

The 26 points were not discussed individually at this meeting. The 26 points formed the basis for the briefing slides presented to Mr. Tenet and were also the basis for the OUSD(P) discussion with CIA personnel on August 20, 2002.

Chairman LEVIN. Then after that meeting they had another meeting; is that correct?

Mr. GIMBLE. When he said, let us get this back in the analytical channels, he had his analysts and the policy folks from Mr. Feith's shop all gathered up on August 20.

Chairman LEVIN. August 20, and the Feith shop folks were there?

Mr. GIMBLE. Yes, sir.

Chairman LEVIN. They identified the differences?

Mr. GIMBLE. My understanding is they discussed the differences. There were some things they agreed on, things they did not agree on. There were some adjustments made and then there were still disagreements at the end of the day.

Chairman LEVIN. All right. Then were those disagreements identified presented in any way that you know of in the slide show that was presented to the National Security Council?

Mr. GIMBLE. No, sir.

Chairman LEVIN. Now, when you answered my question that the slide undercuts the Intelligence Community by indicating to the recipient of the briefing that there are fundamental problems with the way the Intelligence Community was assessing information, you gave as evidence of the fact that that slide undercut the Intelligence Community, you said, "by observing the Vice President's words during an interview in which he describes a memorandum that was obtained and published by the Weekly Standard." There was a memorandum from the Under Secretary of Defense, Mr. Feith, to members of the SSCI, as "your best source of information." Is that correct, that was your answer to my question?

Mr. GIMBLE. Yes, sir.

Chairman LEVIN. Now, I am going to put in the record at this time the statement of Vice President Cheney that you make reference to, and here is what he said: "With respect to the general relationship"—he is referring to between, whether there was one, et cetera, al Qaeda and Saddam—"One place you ought to go look" the Vice President said, "is an article that Steven Hayes did in the Weekly Standard that goes through and lays out in some detail, based on an assessment that was done by the DOD and forwarded to the Senate Intelligence Committee some weeks ago, that is your best source of information."

That is significant for a number of reasons. Number one, that is what he said was the best source of information. Number two, it was—he described the report of the Feith operation as "an assessment." The Vice President himself called that "an assessment." So when there is argument here from some of my colleagues as to whether you are correct in calling that an assessment, it seems to me it was understood as an assessment by as high a personage as the Vice President of the United States, not just simply a critique of something else, but an assessment.

[The information referred to follows:]

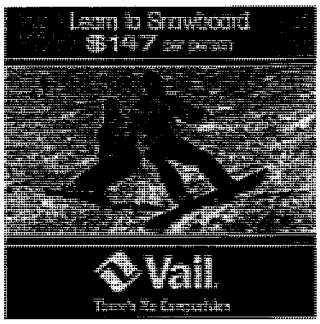
Rocky Mountain News

Transcript of interview with Vice President Dick Cheney

By © Rocky Mountain News and Scripps Howard News Service, 2004
January 9, 2004

Transcript of interview with Vice President Dick Cheney by M.E. Sprengelmeyer of the *Rocky Mountain News*:

Q: You are going to Denver. I was hoping I could first ask you for your response to the Carnegie Foundation report yesterday?



CHENEY: I have not seen the report. Saw some headlines on it I guess. This is on W.M.D.?

Q: Yes, that's right. They question some of the pre-war justifications that were used by the administration.

CHENEY: Well, I think the best source of information, in terms of what we knew or thought we knew before the war, is the National Intelligence Estimate that was prepared by the intelligence community. That's the best judgment of the combined experts -- the CIA, the National Security Agency, Defense Intelligence Agency, etc., that was produced for us in October of '02. And there are about six pages at the front of that, the summary findings, that have been de-classified. I gave a speech using those pages last July at the American Enterprise Institute here in Washington, sort of laying out what we knew at the time. That was the best information we had and I think the jury is still out in terms of how extensive a program Saddam Hussein had. We know he had had an extensive one in the past. We know he had produced, used chemical weapons. We know he had a robust nuclear program. We found that when we got in there after the '91 war. And the reporting that we had prior to the war this time around was all consistent with that -- basically said that he had a chemical, biological and nuclear program, and estimated that if he could acquire fissile material, he could have a nuclear weapon within a year or two. Based on that there wasn't any way the administration could ignore those findings of the intelligence community in terms of thinking about the threat that Saddam Hussein represented.

Q: SIR, I was one of the embedded reporters with the 101st in Iraq....

CHENEY: Were you. That must have been a tremendous experience.

Q: It was amazing, yeah. When I was in Iraq, some of the soldiers said they believed they were fighting because of the Sept. 11 attacks and because they thought Saddam Hussein had ties to al Qaida. You've repeatedly cited such links. I heard your speech in Denver a while back. But even Secretary of State (Colin) Powell now says there's no smoking guns or concrete evidence proving that connection. I wanted to ask you what you'd say to those soldiers, and were those soldiers misled at all?

CHENEY: Well, there are two issues here. First of all, I don't want to speak to Colin's statements. I'm not

familiar with what he said yesterday. Two issues in terms of relationship. One is, was there a relationship between al Qaida and Iraq, between Osama bin Laden and Saddam Hussein, or the al Qaida and the Iraqi intelligence service? That's one category of
issues. A separate question is, whether or not there was any relationship relative to 9/11. Those are two separate questions and people oftentimes confuse them.

On the separate issue, on the 9/11 question, we've never had confirmation one way or another. We did have reporting that was public, that came out shortly after the 9/11 attack, provided by the Czech government, suggesting there had been a meeting in Prague between Mohammed Atta, the lead hijacker, and a man named al-Ani (Ahmed Khalil Ibrahim Samir al-Ani), who was an Iraqi
intelligence official in Prague, at the embassy there, in April of '01, prior to the 9/11 attacks. It has never been -- we've never been able to collect any more information on that. That was the one that possibly tied the two together to 9/11.

With respect to the other question, the general relationship, I would refer you...There are several places you can go. One place you ought to go look is an article that Stephen Hayes did in the Weekly Standard here a few weeks ago, that goes through and lays out in some detail, based on an assessment that was done by the Department of Defense and forwarded to the Senate Intelligence Committee some weeks ago. That's your best source of information. I can give you a few quick for instances, one the first World Trade Center bombing in 1993.

Q: Yes, sir...

CHENEY: The main perpetrator was a man named Ramzi Yousef. He's now in prison in Colorado. His sidekick in the exercise was a man named Abdul Rahman Yasin... Ahman Rahman... Yasin is his last name anyway. I can't remember his earlier first names. He fled the United States after the attack, the 1993 attack, went to Iraq, and we know now based on documents that we've captured since we took Baghdad, that they put him on the payroll, gave him a monthly stipend and provided him with a house, sanctuary, in effect, in Iraq, in the aftermath of nine-ele...(sic)... the 93' attack on the World Trade Center.

Q: So you stand by the statements...?

CHENEY: Absolutely. Absolutely. And you can look at Zarkawi, (Abu Mussab) al-Zarkawi, who is still out there operating today, who was an al-Qaida associate, who was wounded in Afghanistan, took refuge in Baghdad, working out of Baghdad, worked with the Ansar al Islam group up in northeastern Iraq, that produced a so-called poison factory, a group that we hit when we
went into Iraq. They were involved in trying to smuggle things, manufacture and smuggle things like ricin into Europe to attack various targets in Europe with. He also, Zarkawi, was responsible for the assassination of a man named Foley, who worked for A.I.D. in Amman, Jordan, an American assigned over there. The links go back. We know for example from
interrogating detainees in Guantanamo that al Qaida sent individuals to Baghdad to be trained in C.W. and B.W. technology, chemical and biological weapons technology. These are all matters that are there for anybody who wants to look at it. A lot of it has been declassified. More, I'm sure, will be declassified in the future, and my expectation would be as we get
the time. We haven't really had the time yet to pore through all those records in Baghdad. We'll find ample evidence confirming the link, that is the connection if you will between al Qaida and the Iraqi intelligence services. They have worked together on a number of occasions.

Q: We're under a time pinch, so I did want to move on a little bit. When I was over there I did meet Iraqis who told me stories of being persecuted by Saddam Hussein, and they were certainly happy to see him go. But even them, even they and many others doubted the justifications that were being used before the United Nations at the beginning of the war. I wondered in terms of all these arguments about the evidence and the pre-war justifications, are you essentially making the argument that the ends justify the means in terms of removing Saddam Hussein?

CHENEY: I think the world is far better off because of Saddam Hussein's demise if you will. The fact that he's in custody, that his sons are dead, that his government has been deposed, is of a great benefit, not only to 25 million Iraqis but to everybody who lives in the region. I don't think there's any disputing that. And with respect to the justification of why we did what we did, the president has been very clear on it. I have. We've talked about it repeatedly. Given the information we had, given his past use of weapons of mass destruction and the possible link-up if you will in Iraq between state sponsored, sponsoring (sic) terrorists on the one hand and and (sic) possessing weapons of mass destruction on the other, I think we were perfectly justified in doing what we did. I think the American people support it overwhelmingly. And I don't have any qualms at all about the decisions that were made.

Q: Real quick one, even after governing power is turned over to the Iraqis, do you see some level of American troops remaining in Iraq for 5 years, 10 years, or can you give a ballpark on how long?

Chairman LEVIN. What you have told us here today, Mr. Gimble, is that intelligence products, intelligence assessments, are supposed to indicate where there are disagreements; is that correct?

Mr. GIMBLE. They are supposed to be vetted and if there are disagreements——

Chairman LEVIN. They are supposed to be vetted?

Mr. GIMBLE. Right, to reconcile and mitigate any disagreements. But at the end of the day if there are disagreements, both points should be presented.

Chairman LEVIN. Thank you.

Could we perhaps each have a few more questions if you would like.

Senator Chambliss.

Senator CHAMBLISS. Sure. Just very quickly, Mr. Chairman.

Mr. Gimble, let me just go back to this slide and your answer to question number 8 from Senator Levin. Your answer is that: "We believe the slide undercuts the Intelligence Community by indicating to the recipient of the briefing that there are fundamental problems with the way that the Intelligence Community was assessing information."

The fact is, Mr. Gimble, that is a very, very accurate statement, is it not?

Mr. GIMBLE. I am sorry, Senator. I was trying to read this.

Senator CHAMBLISS. In your response to question number 8 from Senator Levin, you say that the slide that is referenced in that question "undercuts the Intelligence Community by indicating to the recipient of the briefing that there are fundamental problems with the way that the Intelligence Community is assessing information."

Now we know, because of what happened on September 11 and because of the intelligence that was given to the decisionmakers prior to the decision of whether or not to go into Iraq, that statement is absolutely truthful, is it not?

Mr. GIMBLE. I think the statement is truthful, yes, sir.

Senator CHAMBLISS. There were fundamental problems with the way the community was assessing information; is that right?

Mr. GIMBLE. I do not think that is what our answer says. We are just saying that the slide was put out there saying that there were fundamental problems.

Senator CHAMBLISS. But my question is, is that not a very accurate statement, that there were fundamental problems?

Mr. GIMBLE. You can find examples of having problems. I am not sure that I can make an overall assessment of the overall intelligence processes based on this one review.

Senator CHAMBLISS. Let me go back to your comment in response to Senator Webb when he asked you as to whether or not this was an intelligence product. Are you contending that is actually the case now, Mr. Gimble, that the Feith report was an intelligence product?

Mr. GIMBLE. Yes, sir, I am contending that.

Senator CHAMBLISS. Well now, I thought you told us that he did not gather any intelligence.

Mr. GIMBLE. But he analyzed—he did not gather intelligence, but it was analyzed and disseminated, and when you do the production that results is an intelligence product.

Senator CHAMBLISS. That is what you would consider an intelligence product?

Mr. GIMBLE. Yes, sir.

Senator CHAMBLISS. Lastly, the commander and you both stated that you utilized the Office of General Counsel to participate in the interview process. Now, OIG has independent authority. Why would you go to the Office of General Counsel for assistance?

Mr. GIMBLE. That is our Office of General Counsel.

Senator CHAMBLISS. I got you, okay.

That is all I have, Mr. Chairman.

Chairman LEVIN. Thank you, Senator Chambliss.

Senator Sessions.

Senator SESSIONS. It seems to be implicit in your remarks that there is some sort of sanctity given to the CIA conclusions and that to criticize those or disagree with those is improper. You are not saying that, though, are you?

Mr. GIMBLE. No, we are not saying that at all. It is proper to criticize. But when you have a vetted intelligence product and you have somebody that is doing alternate conclusions or an alternate intelligence product, if there are differences, we think those should be discussed.

Senator SESSIONS. All right. Now, so is it not true that after the policy staffers found some of this information, when they took it to the CIA, defensive as any agency is—and I have been in the Federal Government for many years as United States Attorney and prosecutor and worked with them; I know people are defensive—they accepted a good deal of what they asked them and pointed out to them, did they not?

Mr. GIMBLE. There was common agreement on——

Senator SESSIONS. They accepted a good deal of what they suggested that had not been in their previous reports and estimate?

Mr. GIMBLE. There were 26 points of discussion and a little less than half of them were agreed to.

Senator SESSIONS. Okay, so a little bit less than half of these 26 they admitted that they could—putting them in would give a better report, and they accepted that. Some they did not accept. But some of the guys in the Feith shop disagreed on that. They thought they should have been accepted, correct?

Mr. GIMBLE. What happened, there was a paper put together. The analysts went and looked at it, critiqued it, came up with 26 points that they had either agreement on or disagreement on, and those, the best I could tell, did not change any of the Feith briefing.

Senator SESSIONS. I will just draw my own conclusion. My own conclusion is that they raised a number of points, and that the CIA admitted a number of those points were valid and accepted and it made the report better, and the report would not have been made better had it not been for Feith's staff digging into the raw documents and finding this information and bringing it forward.

Then I do not see anything unusual that they would not want to, when they talked to the CIA about their disagreements, that they would not have a slide that says fundamental problems with how the Intelligence Community is assessing information. I would say it is just a matter of courtesy that you might not do that. But I think if you have a concern that CIA is not properly assessing information you should take it to the National Security Advisor and maybe be a little bit more explicit when you make that briefing.

So you have said they have done nothing illegal. You said they acted with authority. You say that this briefing with the National Security Advisor, the Assistant, Mr. Hadley, was inappropriately done in your opinion because they did not give both sides of all these issues, and that is based on fundamentally the slides that you had? You do not know the exact words these staffers used?

Mr. GIMBLE. Exact words in the briefing?

Senator SESSIONS. Yes.

Mr. GIMBLE. I was not there.

Senator SESSIONS. All you had was the slides?

Mr. GIMBLE. We have the slides. We have the detail that underlies the slides. The issue is——

Senator SESSIONS. Wait a minute now. Wait a minute now. So but you do not know what they said?

Mr. GIMBLE. I was not in the room.

Senator SESSIONS. But they say to you that the nature of the briefing was not to present a counter-case or a counter-substantive analysis of these issues, but a fundamental raising of concerns about the CIA analysis and pointing out some of the errors they thought the CIA had made. Is that not what they say?

Mr. GIMBLE. They say that, they do.

Senator SESSIONS. That is what they say.

Mr. GIMBLE. Yes.

Senator SESSIONS. Okay. So I do not know—surely the National Security Advisor, Mr. Hadley, the Deputy, was aware that this by its very nature of the briefing, it was more of a critique and objection to some of the things in the CIA analysis. [Audience interruption.]

Chairman LEVIN. Excuse me. Excuse me. We will not allow any additional outbreaks. I would ask that you now leave. I am going to have to ask whoever did that to please leave the room now.

Senator SESSIONS. I would just say, Mr. Chairman, thank you. I guess that is the appropriate thing to do. I think there is a group of people that think that somehow these staffers were part of some cabal to start a war for oil or some such thing as that, and that they were not committed to the decency of America and trying to make this country better and that they cooked up all this stuff.

I think your report shows that that is absolutely untrue and that there were bases for what these issues were raised. These issues are often in dispute and difficult to know what the real facts are, and we had an open discussion and the Secretary of Defense and the Assistant Secretary of Defense ordered that they get with CIA and work out the differences and discuss them. I am sure the results of that eventually found its way to policymakers.

Thank you, Mr. Chairman.

Chairman LEVIN. Thank you, Senator Sessions.

I think we will go back and forth here now. Senator Webb, do you have additional questions?

Senator WEBB. No.

Chairman LEVIN. Senator Warner?

Senator WARNER. Let the record reflect my conversation with my colleague from Virginia was relating to a State matter, not this hearing. We have rescheduled a meeting that we have together here today.

Chairman LEVIN. The record will so reflect.

Senator WARNER. We keep coming back to this very pivotal phrase. You rendered a professional judgment that the conduct of certain principals in the administration was inappropriate with regard to the compilation, preparation, and ultimate delivery of briefings.

To what extent in your work did you go down into the system to try and find out why they did this? Because I still visualize a cadre of very patriotic, very loyal members of the—I presume most of them professional staff of the DOD, detailed officers from the DIA; and that that was the team that brought up the information that came to Secretary Feith's office.

Did you probe, did they have knowledge that some of their conclusions was not being delivered? If so, what were their opinions why their principals were not doing this? In other words, to support your conclusion it would seem to me you would have wanted to have gone back into the system to find out why this occurred.

Mr. GIMBLE. Let me just characterize it this way. First off, we were not looking at individuals. We were looking at the end product, the process. I agree with you, we have no reason to doubt the professionalism, dedication of all the employees, because we think they are and they do things with good intentions. We have no problem with that. That is not an issue for us.

What we have reported is that when the process came up and the decision came up, there was a disagreement. There were known disagreements on both sides, and when it funneled down the presentation to the policymakers, one side of it did not appear in these briefings. We are saying in our view that that was inappropriate. It should have been balanced, because you had a non-intelligence operation that was doing intelligence analysis. That is probably okay. We do not have a problem with that. We thought, because the Secretary or the Deputy Secretary authorized it, that was fine.

However, you have the professional Intelligence Community, and you can say that people disagree with what they do or do not do. That is okay too. We are just saying that when you get the two fairly different opinions on a number of issues going forward to a decisionmaker that we think it is important to have a balance on that and to do less than that would be considered inappropriate.

Senator WARNER. Mr. Gimble, we understand that and you have presented that in your charts. But take for example the briefing that was conducted by Mr. Feith's staff. I have to assume that those who conducted that briefing were out of this cadre of what I call dedicated career professionals. But they are equally culpable in the sense that they did not present the other side.

Did you ask why they did not do it? Were they told not to do it, or did they draw on their own professional expertise and decide not to do it? In other words, the wrong, if it is a wrong, alleged by you was performed by human beings. Why did they do what they did?

Mr. GIMBLE. I believe that what they did——

Senator WARNER. You believe. Do you know? Do you have facts to back up?

Mr. GIMBLE. If you let me just——

Senator WARNER. You have a very significant assertion here. What is the body of fact that gives rise to—I realize factually it was not done, but what was the reason it was not done?

Mr. GIMBLE. The issue for us is that when you have intelligence-gathering responsibilities and you are an intelligence operation, you have certain guidelines you have to follow. The policy shop was directed and authorized by the Secretary to do that, and we do not believe they followed the prescribed intelligence vetting processes

and they had information that went up that was not vetted and it was not shown to be divergent from the other in these briefing charts.

We think that is inappropriate. That is my opinion. Was it any malintent? I will leave that to the able body up here or whoever else investigates it. I am not in a position to make a call on somebody's intent of why they did something. We were not looking—the question has been why did we not swear people in. This was not an investigation of people. This was an investigation of process—or a review of process, not even an investigation of anything.

Senator WARNER. All right. Some of Feith's staff gave one of these three critical briefings; is that correct?

Mr. GIMBLE. They did.

Senator WARNER. Did your debriefers or interrogators ask them why they deleted certain material?

Mr. GIMBLE. You are talking about the changes between briefing to briefing? There are two issues here. The briefing got changed three times. For each of the three, there were differences in that. Okay, that is one issue.

The underlying issue that I am more concerned with is there was an amount of disagreement on the basic fact of the presentation, and that is what we think should have been presented in all three versions, and it simply was not done.

Senator WARNER. All right, you have your opinion it should have been. Did you inquire as to why it was not done from the individuals that did not do it?

Mr. GIMBLE. We asked Secretary Feith, as an example, why that chart did not appear in the briefing to Mr. Tenet.

Senator WARNER. Yes, and we have before us his letter, whatever.

But I am going back to these professional staff people. Apparently they did one of the briefings. The chart was not included. My question, did you ask any of these individuals, not you because you decided not to interview, but your staff. Did they ask the individuals why did they delete this?

Mr. GIMBLE. They did not ask that. First, it was not just deleted. The underlying issue of the 26 points was never in the presentation to be deleted to start with.

Senator WARNER. I think at this point we just best go to the classified session and see what we can gain.

Chairman LEVIN. Thank you, Senator Warner.

Senator Webb.

Senator WEBB. Just one final comment. Mr. Gimble, I understand the motivation of your report and I think it is important for us to reinforce that, that you were asked to present certain conclusions without getting into political motivation. I certainly have my political views about why this was done and I was stating them at the time, that there was a group of people who wanted very much for this country to get involved in a unilateral war against a country that was troublesome but was not directly threatening us. That became clear very early on after September 11.

That is not the issue that is before us. That is not the issue that was in the report that you were asked to be giving us. In terms of staffs in the Pentagon, Senator Warner and I both have long ex-

perience in the Pentagon. I had 5 years in the Pentagon, as I mentioned earlier, 1 year actually on Senator Warner's staff when he was Under Secretary and then Secretary of the Navy. It is important to say that, first of all, these staffs are comprised of a mix of people in terms of their backgrounds. Some of them are political appointees, some of them are career, some of them are military, as we know.

But very often the makeup of a staff is reflected by the motivations and the character of the leadership on the staff. They selected people. Even in terms of people who are career, they interview, they select, and the staff over a period of time comes to reflect the views of the leadership. I would not be surprised if that were the case in this staff.

But the most important thing that you have done here is to provide opinions that are devoid of political judgment, and I think that is why your report to this extent is so valuable. If we want more information, if the chairman wants more information, if Senator Warner and others want more information—I certainly would like more information on this because I would like to see some accountability.

But to the extent that you have been able to compile information, I find it to be credible.

Mr. GIMBLE. Thank you.

Chairman LEVIN. We will put in the record the request, if it is not already in the record, of Chairman Roberts of September 9 asking you or your predecessor to know whether to ascertain whether the personnel assigned to OSP, which was part of the Feith operation, at any time conducted inappropriate intelligence activities. Your finding is clear that they did.

[The information referred to follows:]

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United States Senate

SELECT COMMITTEE ON INTELLIGENCE
WASHINGTON, DC 20510-6475

September 9, 2005 SSCI # 2005 3717

The Honorable Joseph E. Schmitz
Inspector General
Department of Defense
400 Army Navy Drive
Arlington, VA 22202

Dear Mr. Schmitz:

The Committee is concerned about persistent and, to date, unsubstantiated allegations that there was something unlawful or improper about the activities of the Office of Special Plans within the office of the Under Secretary of Defense for Policy during the period prior to the initiation of Operation Iraqi Freedom. The Senate Armed Services Committee and Senate Select Committee on Intelligence have both examined this issue. Both staffs have reviewed thousands of documents and conducted numerous interviews. Under Secretary Feith has appeared before both Committees to testify on this issue. I have not discovered any credible evidence of unlawful or improper activity, yet the allegations persist.

Accordingly, I request that you immediately initiate an investigation into the activities of the Office of Special Plans during the period prior to the initiation of Operation Iraqi Freedom to determine whether any of these activities were unlawful or improper. The Committee is specifically interested in knowing whether the personnel assigned to the Office of Special Plans, at any time, conducted unauthorized, unlawful or inappropriate intelligence activities.

I believe that an independent review into this matter may allow it to finally be resolved. I look forward to hearing from you.

Sincerely,

Pat Roberts

Pat Roberts
Chairman

Chairman LEVIN. As to why they did not do what the process required them to do in making an intelligence assessment is something that we will find out, either with the SSCI or on our own. If they are looking into that aspect of it, we are not going to duplicate that aspect of it. But why these inappropriate activities were undertaken is an important question. It was not the question that you looked at because that gets into motive. You focused on whether or not the activities were inappropriate. You reached your con-

clusion. I think the evidence is overwhelming that your conclusion is correct.

We will now do the following. Any of us who have questions of you will put those questions in writing that can be answered in the open record. We are now going to go to a closed session. But we will have a period of 24 hours, let us say 48 hours, to put together questions for you for the open record.

In addition, we will be talking to witnesses who presented that slide presentation to the Vice President's office and to the National Security Council. So if you would supply us with the names of the people from the Feith office that did make this presentation, we will be interviewing those folks. We will also seek interviews with Mr. Hadley and Mr. Libby, and see whether or not they will be willing to meet with us.

[The information referred to follows:]

The list of individuals who presented the briefing, "Assessing the Relationship between Iraq and al Qaeda," follows:

Mr. Christopher Carney (OUSD(P))
Ms. Christina Shelton (OUSD(P))
Mr. Jim Thomas (Special Assistant to the Secretary of Defense)

Chairman LEVIN. You said that Mr. Hadley declined to meet with you?

Mr. GIMBLE. The counsel over there declined to make him available.

Chairman LEVIN. Did you seek to talk to Mr. Libby as well?

Mr. GIMBLE. No, sir, we did not.

Chairman LEVIN. We will make—since the presentation was to his staff, we will try to either talk to him or to his staff. I believe he was, though, at the presentation if I am not—is that correct, Mr. Libby was there?

Mr. GIMBLE. He was at the presentation.

Chairman LEVIN. So we will seek to talk to them both, Mr. Hadley and Mr. Libby, and we would appreciate your letting us know who it was on behalf of the Feith office that made this presentation.

We are now going to move to the classified portion. It will not take long. I think you have an obligation to be at a different presentation. At what time is that?

Mr. GIMBLE. After this hearing.

Chairman LEVIN. After this hearing.

We will now move. We thank you all for your presence. We will move to room 236. We are adjourned.

[Questions for the record with answers supplied follow:]

QUESTIONS SUBMITTED BY SENATOR CARL LEVIN

LACK OF A RECOMMENDATION

1. Senator LEVIN. Mr. Gimble, your report doesn't make any recommendations as to remedial action that should to be taken. Your report states that the circumstances prevalent in 2002 are no longer present today and that "the continuing collaboration between the Under Secretary of Defense for Intelligence (USD(I)) and the Office of the Director of National Intelligence will significantly reduce the opportunity for the inappropriate conduct of intelligence activities outside of intelligence channels."

However, the present Under Secretary of Defense for Policy has submitted 50 pages of comments that disagree with virtually every aspect of your draft report and, in particular, that the Feith office was engaged in intelligence activities.

Since the present Under Secretary of Defense for Policy doesn't believe that what was done in the Feith shop was inappropriate, why should we believe that such intelligence activities won't be repeated?

Mr. GIMBLE. As stated in our report, the creation of the USD(I) and the aggressive efforts of the Director of National Intelligence's National Intelligence Council and analytic integrity and standards have contributed to a more favorable operational environment. It should also be noted that the Office of Special Plans (OSP) and the Policy Counterterrorism Evaluation Group are no longer a part of the Office of the Under Secretary of Defense for Policy (OUSD(P)) and elements of the OUSD(P) moved to the USD(I) with its establishment.

We did not include any recommendations for remedial action because the conditions that exist today are different from the circumstances which existed during the months leading up to the invasion of Iraq. Our conclusion that the environment within the DOD and the Intelligence Community (IC) has changed is supported by the statements made by Robert Gates (Secretary of Defense) and Michael McConnell (Director of National Intelligence) during their confirmation hearings held in December 2006 and February 2007, respectively.

Mr. Gates stated: "The one thing I don't like is offline intelligence organizations, or analytical groups. I would far rather depend on the professional analysts at Defense Intelligence Agency (DIA) and at Central Intelligence Agency (CIA) and at the other agencies, and work to ensure their independence than to try and create some alternative some place. And so I think that relying on those professionals, and making it clear, from my position, if I'm confirmed, that I expect then to call the shots as they see them and not try and shape their answers to meet a policy need."

Mr. McConnell, when asked what he would do if he became aware that intelligence was being used inappropriately, stated, "If I was aware that anyone was using information inappropriately, then I would make that known to whoever was using the information inappropriately." He further stated, "I would tell all those responsible for this process what the situation was. In the role of this committee (Senate Select Committee on Intelligence ((SSCI)) for oversight, you would be a part of that process to be informed."

ALTERNATIVE ANALYSIS BRIEFING

2. Senator LEVIN. Mr. Gimble, the OUSD(P) alternative analysis briefing "Assessing the Relationship Between Iraq and al Qaida" was given to the Secretary of Defense, the Director of Central Intelligence, and to the staffs of the Office of the Vice President and the National Security Council.

Did you ask, and do you know, if that briefing was given to any other entities or foreign governments? If so, to whom?

Mr. GIMBLE. We did not ask, nor are we aware of any foreign governments or any other entities being briefed this presentation.

CZECH VIEW OF ALLEGED ATTA MEETING

3. Senator LEVIN. Mr. Gimble, during the briefing there was a discussion of when the Czech Government first came to doubt that the alleged Atta meeting with the Iraqi intelligence officer, al Ani, took place in Prague in April 2001.

Can you review your records and tell us when the Czech Government first doubted that the meeting took place, and when they first concluded that it had not taken place?

Mr. GIMBLE. In the winter of 2001 Czech officials began to retract some of their statements concerning the Atta/al-Ani meeting. We do not have documents showing when they first concluded that it had not taken place.

RELEASE OF ORIGINATOR CONTROLLED MATERIAL WITHOUT CLEARANCE

4. Senator LEVIN. Mr. Gimble, is it required that approval must be granted for a non-originating agency to release originator controlled (ORCON) material before releasing it?

Mr. GIMBLE. Yes. Executive Order Number 12958, "Classified National Security Information," dated March 2003 states:

> "An agency shall not disclose information originally classified by another agency without its authorization."

The Controlled Access Program Office (CAPCO) describes ORCON in the IC Classification and Control Markings Implementation Manual as:

> "Information bearing this marking may be disseminated within the headquarters and specified subordinate elements of the recipient organizations, including their contractors within government facilities. This information may also be incorporated in whole or in part into other briefings or products, provided the briefing or product is presented or distributed only to original recipients of the information. Dissemination beyond headquarters and specified subordinate elements or to agencies other than the original recipients requires advanced permission from the originator."

5. Senator LEVIN. Mr. Gimble, did Under Secretary Feith have that approval from the CIA before he released the ORCON material to the SSCI in late October 2003?

Mr. GIMBLE. No. However, Under Secretary Feith believed that the CIA had approved the ORCON material before sending it to the SSCI in October 2003. In Under Secretary Feith's statement to the DOD Inspector General's (IG) office he stated that he requested permission from the CIA to release the ORCON material, but lacking a timely response, he believed that the CIA had granted permission to release the material. During our review we found no documentation of the ORCON request to CIA from Under Secretary Feith, however, on November 15, 2003, a Department of Defense (DOD) news release stated, "the provision of the classified annex to the Intelligence Committee was cleared by other agencies and done with the permission of the Intelligence Community." This press release was sanctioned by the CIA's then Deputy Director Central Intelligence (DDCI), thus signaling CIA's approval of the information's release.

6. Senator LEVIN. Mr. Gimble, your report says that the Feith office requested approval to release the documents. Did your staff review the actual letter of request from the Feith office to the CIA?

Mr. GIMBLE. No, we have no such documentation from Under Secretary Feith to the CIA. However, the July 2006, "Memorandum for the Inspector General, DOD on behalf of The Honorable Douglas J. Feith," stated that his staff gave the summary to the CIA for approval on October 24, 2003. We have no evidence proving otherwise. Eventually the DDCI approved the release via a joint DOD press release in November 2003.

7. Senator LEVIN. Mr. Gimble, your report says that the Feith office "believed" it had approval from the CIA before sending the material to the SSCI. Who told you that the Feith office believed they had the CIA approval, and what was the basis provided for that belief?

Mr. GIMBLE. In the July 2006, "Memorandum for the Inspector General, DOD on behalf of The Honorable Douglas J. Feith" and his July 2006 interview with my staff, Under Secretary Feith declared his belief that his office had obtained CIA approval for the release of ORCON materials.

8. Senator LEVIN. Mr. Gimble, do you believe it is appropriate, if an office does not receive a response providing ORCON release approval, for it to assume that it has been given such approval?

Mr. GIMBLE. Executive Order Number 12958, "Classified National Security Information," dated March 2003 states:

> "An agency shall not disclose information originally classified by another agency without its authorization."

The CAPCO describes ORCON in the IC Classification and Control Markings Implementation Manual as:

> Information bearing this marking may be disseminated within the headquarters and specified subordinate elements of the recipient organizations, including their contractors within government facilities. This information may also be incorporated in whole or in part into other briefings or products, provided the briefing or product is presented or distributed only to original recipients of the information. Dissemination beyond headquarters and specified subordinate elements or to agencies other than the original recipients requires advanced permission from the originator."

This guidance clearly states approval for release of classified information must be cleared through the originating agency and we believe it is appropriate to wait for specific approval prior to release of classified information.

9. Senator LEVIN. Mr. Gimble, your report says: "The OUSD(P) requested permission from the CIA to release the ORCON material, but lacking a timely response, the OUSD(P) believed that the CIA had granted permission to release the material."

If the Feith office believed they had approval to release the original submission to the SSCI on October 27, 2003, why did they seek approval before sending the revised annex to the Senate Armed Services Committee in January 2004?

Mr. GIMBLE. The July 2006. "Memorandum for the Inspector General, DOD on behalf of The Honorable Douglas J. Feith" states "because the original ORCON release request applied only to the SSCI, the OUSD(P) requested CIA ORCON release authority for the other committees."

REVISED SUBMISSION OF ORIGINATOR CONTROLLED MATERIAL TO CONGRESS

10. Senator LEVIN. Mr. Gimble, in relation to the January 2004 revised ORCON material that Under Secretary Feith sent to the Senate Armed Services Committee and other congressional committees, did your staff compare the specific changes requested by the CIA with:

- the actual changes that were made by Under Secretary Feith to the document; and
- the changes that were represented by Under Secretary Feith to have been requested by the CIA?

Mr. GIMBLE. Yes, my staff examined the original OUSD(P) document and the amended document with the changes. We also noted that in a memorandum dated November 1, 2004, the CIA Director of Congressional Affairs stated "after a careful comparison between that submission and what we had requested as our condition for clearance of CIA material, I believe that you made all of the changes we requested."

FEITH BRIEFING ON ATTA MEETING

11. Senator LEVIN. Mr. Gimble, one of the questions I asked you to investigate was whether the Feith office prepared briefing charts on the Iraq-al Qaeda relationship that went beyond the available intelligence by asserting that an alleged meeting between September 11 lead hijacker Mohammed Atta and an Iraqi intelligence agent in Prague in April 2001 was a "known contact." Your report confirms that the briefing presented the alleged meeting as a fact.

Was this alleged meeting—which the IC doubted took place—a key underpinning of the Feith office conclusion that Iraq and al Qaeda had a cooperative relationship?

Mr. GIMBLE. The alleged meeting between Mohammed Atta and al-Ani was indeed a "key underpinning of the Feith office conclusion," however it was one of many. OUSD(P) also believed that there was a "mature symbiotic relationship" in other areas such as the pursuit of weapons of mass destruction, training, and Iraq providing a safe haven for al Qaeda.

12. Senator LEVIN. Mr. Gimble, did you find that both the CIA and DIA had published reports in the summer of 2002, prior to the Feith office briefing to the White House containing this assertion, that questioned the single Czech report alleging the meeting?

Mr. GIMBLE. Yes. In June 2002 the CIA published a report that downplayed the alleged meeting between Mohammed Atta and an Iraqi intelligence agent. In July 2002 the DIA Joint Intelligence Task Force-Combating Terrorism published special analysis that pointed to significant information gaps in regards to the alleged meeting. I have included additional classified information in response to this question.

Czech Message Summary

The following is a classified summary of the CIA message traffic we reviewed for our report. [Deleted.]

COMPARISON OF ORAL BRIEFING TO BRIEFING SLIDES

13. Senator LEVIN. Mr. Gimble, in its comments on your draft report, did the current OUSD(P) assert that the slides accompanying the presentation "Assessing the Relationship Between Iraq and al Qaeda" made in 2002 by members of Under Secretary Feith's Office to the Secretary of Defense, the Director of Central Intelligence, to the Deputy National Security Advisor, and the Vice President's Chief of Staff were, in any way, not reflective of the oral briefing that accompanied them?

Mr. GIMBLE. In our review of the current Under Secretary of Defense for Policy's comments on our report we did not find any statement that quoted him as saying

the brief made in 2002 was not reflective of the oral briefing that accompanied the slides.

14. Senator LEVIN. Mr. Gimble, did Mr. Feith, or any of those people who worked on the presentation, assert that the slides were, in any way, not reflective of the oral briefing that accompanied them?

Mr. GIMBLE. During our review, my staff did not discover any evidence that what appeared in OUSD(P) slides (overhead and hardcopy) differed from what was briefed orally. Our interviews with OUSD(P) briefers did not reveal that opposing views (the IC's) were articulated.

ANY DENIED DOCUMENTS

15. Senator LEVIN. Mr. Gimble, were there any documents or information you requested which you were denied? If so, what was denied to you, and for what reason or reasons?

Mr. GIMBLE. No. All documents requested were received.

UNCLASSIFIED AND DECLASSIFIED VERSIONS OF REPORT

16. Senator LEVIN. Mr. Gimble, a significant portion of your classified report is actually unclassified text. Your unclassified briefing material was drawn heavily from the report, which is otherwise classified. Please provide an unclassified version of the report to the committee immediately. Then, please review the rest of the report for declassification to see if classified portions can be declassified and made public. Please provide a declassified version of the report after the declassification review.

Mr. GIMBLE. We are in the process of preparing a declassified version. On February 22, 2007, we sent letters to the DIA and CIA requesting declassification assistance. Upon completion, the declassified version of the report will be provided to the committee. [See ANNEX A]

DOCUMENT STORAGE

17. Senator LEVIN. Mr. Gimble, our staff has heard—not from your office—that Mr. Feith was storing Pentagon documents that were relevant to your review at places other than the Pentagon, such as the National War College at Fort McNair.

- Is that true? If so, what was Mr. Feith's rationale for doing so?;
- If so, were all applicable rules and procedures followed in the movement of those documents, and have all documents been accounted for?; and
- If so, do you know whether that removal hindered your inquiry in any way?

Mr. GIMBLE. Yes, it is true that Mr. Feith stored documents on a computer hard drive and computer external drive at the National Defense University (NDU). Mr. Feith stored these documents for archival purposes. Mr. Feith is in the process of writing a book on his experiences. All applicable rules and procedures were not followed because the staff at NDU informed DOD IG that storage of the computer at NDU was done without permission of the Office of the Secretary of Defense (OSD) Records Management Office. The OSD Records Management Office subsequently removed the computer from NDU. However, this removal did not hinder DOD IG in any way because the computer hard drives were imaged by the Defense Criminal Investigative Service prior to the removal.

INFORMATION REQUESTS

18. Senator LEVIN. Mr. Gimble, please provide copies of the following to the committee:

- A list of all individuals interviewed for your inquiry;
- A list of all individuals you sought to interview, but were denied an interview;
- All documents requested by the committee or promised by the DOD IG at the briefing, including, but not limited to, the following:
    - the August 9, 2002 DIA JTIF–CT document(s) and subject OUSD(P) document(s) reviewed by JTIF–CT;
    - the July 25, 2002 OUSD(P) memo related to the OUSD(P) briefings; and

- documents from the period around August 20, 2002, indicating the 26 points of disagreement between the OUSD(P) alternative analysis and the IC, and the views of the IC on those 26 points.

Mr. GIMBLE. Documents requested by the committee or promised by the DOD IG at the briefing have been provided as inserts to the record. I have also included in response to this question a copy of the July 12, 2006, "Memorandum for the Inspector General, DOD on behalf on The Honorable Douglas J. Feith, Former Under Secretary of Defense for Policy." [See ANNEX B]

The August 9, 2002 DIA JTIF–CT document(s) and subject OUSD(P) document(s) reviewed by JTIF–CT; the July 25, 2002, OUSD(P) memo related to the OUSD(P) briefings are both ORCON CIA and DIA, on February 21, 2007, we requested declassification reviews from both and subsequently on March 9, 2007, we initiated a request to release these two documents to the Senate Armed Services Committee. These 2 documents also address the issue of the 26 points of disagreement between the OUSD(P) alternative analysis and the IC, and the views of the IC on those 26 points.

I have provided, as an insert for the record, a version that has been redacted to protect privacy under the Privacy Act of 1974, 5 U.S.C. 552a as amended. An unredacted list has been provided to the committee.

The attached list contains the names of 72 individuals interviewed, 4 individuals declining to be interviewed, and 2 additional names of importance.

Individuals interviewed:

1. Brig Gen Ronald D. Yaggi (USAF Ret)
2. [redacted]
3. [redacted]
4. GEN Tommy Franks
5. [redacted]
6. [redacted]
7. [redacted]
8. [redacted]
9. Congressman Christopher Carney
10. [redacted]
11. [redacted]
12. [redacted]
13. [redacted]
14. [redacted]
15. [redacted]
16. [redacted]
17. [redacted]
18. [redacted]
19. [redacted]
20. [redacted]
21. Mr. Joseph McMillan (SES)
22. [redacted]
23. [redacted]
24. [redacted]
25. Mr. Jim Thomas (SES)
26. [redacted]
27. Mr. Larry Wilkerson
28. Mr. Peter Flory (SES)
29. [redacted]
30. [redacted]
31. [redacted]
32. [redacted]
33. Mr. John Phillip Mudd (SES)
34. [redacted]
35. Mr. Paul Wolfowitz (Former DEPSECDEF)
36. Dr. Stephen Cambone (Former Under Secretary of Defense for Intelligence)
37. [redacted]
38. Dr. Chris Lamb (SES)
39. Mr. Jaymie Duman (former SES)
40. [redacted]
41. Mr. Robert "Bob" Andrews (interviewed twice) (SES)
42. BG Simon P. Worden, (USAF Ret)
43. [redacted]
44. LTG Jeffrey Kimmons
45. [redacted]
46. [redacted]
47. Mr. Andy Hoehn (Former SES)
48. Mr. Paul Butler (Former SES)
49. MG John Batiste (USA, Ret)
50. [redacted]
51. Mr. George Tenet (Interviewed twice, once telephonically, once in person) (Former DCI)
52. [redacted]
53. [redacted]
54. [redacted]
55. [redacted]

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56. [redacted]
57. Admiral Lowell (Jake) Jacoby - (USN, Ret)
58. [redacted]
59.
60.
61. Mr. Douglas Feith (Former USDP)
62. [redacted]
63.
64.
65.
66. Mr. Peter Rodman (Former SES)
67. [redacted]
68.
69.
70.
71. Dr. Linton Wells II (SES, Director of NII)
72. Mr. John Stenbit (Former SES)

Total: 72.

Individuals declining to be interviewed

1. [redacted]
2.
3.
4. Mr. John McLaughlin (former DDCI)

Other

Mr. Stan Moskowitz (Deceased prior to interview)
GEN John Abizaid, USA (Declined due to time constraints)

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QUESTIONS SUBMITTED BY SENATOR JACK REED

CONTACTS WITH FOREIGN INTELLIGENCE AGENCIES

19. Senator REED. Mr. Gimble, did the OSP have contacts and talk with intelligence agencies of other countries? If so, which ones?

Mr. GIMBLE. No. Our review was of pre-Iraqi war intelligence activities of the OUSD(P). We focused on analysis, production, and dissemination of intelligence with regards to the Iraq-al Qaeda connection. Nothing during the course of our review indicated that collection of intelligence was occurring particularly with intelligence agencies of other countries. Existing intelligence products and raw intelligence were used by the OUSD(P).

AHMED CHALABI

20. Senator REED. Mr. Gimble, did your staff look into activities of the OUSD(P) related to Ahmed Chalabi? If so, what did you find?

Mr. GIMBLE. We were tasked to review the pre-Iraqi war activities of the OUSD(P). We did not review or evaluate any activities concerning Ahmed Chalabi as part of this effort. The Iraqi National Congress (INC) review, another ongoing DOD OIG intelligence review, looked at relationships of DOD personnel with the INC, not exclusively Ahmed Chalabi. Chalabi was the leader of the INC, but he was not the INC or the only person DOD dealt with. A classified report is planned for issuance in April 2007. The final report will be provided to the Senate Armed Services Committee upon completion.

ANNEX A

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Report No. 07-INTEL-04
February 9, 2007
Review

Inspector General
United States
Department of Defense

DEPUTY INSPECTOR GENERAL FOR INTELLIGENCE

Review of the Pre-Iraqi War Activities of the Office of the Under Secretary of Defense for Policy

SECRET//NOFORN//MR20320209

(U)

Additional Information and Copies

If you have questions on the report, or to request additional copies, contact [redacted] at (703) 604-[redacted] (DSN 664-[redacted]), or [redacted] at (703) 604-[redacted] (DSN 664-[redacted]).

Suggestions for Evaluations

(U) To suggest ideas for or to request evaluations of Defense intelligence issues, contact the Office of the Deputy Inspector General for Intelligence at (703) 604-8800 (DSN 664-8800) or fax (703) 604-0045. Ideas and requests can also be mailed to:

The Office of the Deputy Inspector General for Intelligence
Inspector General of the Department of Defense
400 Army Navy Drive (Room 703)
Arlington, VA 22202-4704

DEPARTMENT OF DEFENSE
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Phone: 800.424.9098 e-mail: hotline@dodig.osd.mil www.dodig.osd.mil/hotline

Acronyms (U)

ASD(ISA)	Assistant Secretary of Defense, Office of International Security Affairs
CIA	Central Intelligence Agency
DCI	Director of Central Intelligence
DIA	Defense Intelligence Agency
DNI	Director of National Intelligence
IC	Intelligence Community
JITF-CT	Joint Intelligence Task Force - Combating Terrorism
OSD	Office of the Secretary of Defense
OSP	Office of Special Plans
OUSD(P)	Office of the Under Secretary of Defense for Policy
PCTEG	Policy Counter Terrorism Evaluation Group
SSCI	Senate Select Committee on Intelligence

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INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
400 ARMY NAVY DRIVE
ARLINGTON, VIRGINIA 22202-4704

February 9, 2007

MEMORANDUM FOR UNDER SECRETARY OF DEFENSE FOR POLICY

SUBJECT: Report on Review of the Pre-Iraqi War Activities of the Office of the Under Secretary of Defense for Policy (Report No. 07-INTEL-04) (U)

(U) We are providing this report for information and use. We performed this review in response to a congressional request. We considered management comments on a draft of this report when preparing the final report. We deleted the draft recommendation from the report; therefore, no written response to this report is required.

(U) We appreciate the courtesies extended to the staff. Questions should be directed to [redacted] at (703) 604-[redacted] (DSN 664-8896) or [redacted] at (703) 604-8818 (DSN 664-[redacted]). See Appendix J for the report distribution. The evaluation team members are listed inside the back cover.

Thomas F. Gimble
Acting

Derived from: Multiple Sources
Reason: 1.5(c)
Declassify on: MR20320209

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Department of Defense Office of Inspector General

Report No. 07-INTEL-04 **February 9, 2007**
(Project No. D2006-DINT01-0077.000)

Review of Pre-Iraqi War Activities of the Office of the Under Secretary of Defense for Policy (U)

Executive Summary (U)

(U) Who should read this report and why. Personnel within DoD who are responsible for monitoring and providing official oversight of DoD intelligence issues should read this report because it discusses the issue of whether or not the Office of the Under Secretary of Defense for Policy conducted unauthorized, unlawful or inappropriate "Intelligence Activities"[1] during the pre-war period leading up to war with Iraq.

(U) Background. On July 7, 2004, the Senate Select Committee on Intelligence released a classified report, "Report on the U.S. Intelligence Community's Pre-War Intelligence Assessments on Iraq" that was critical of the Intelligence Community assessments on Iraq, further concluding that the "Intelligence Community analysts lacked a consistent post-September 11th approach to analyzing and reporting on terrorism threats."

(U) On October 21, 2004, Senator Carl Levin released an unclassified report that the Senate Armed Services Committee Minority Staff prepared entitled, "Report of an Inquiry into the Alternative Analysis of the Issue of an Iraq-al Qaeda Relationship." This report substantively challenged some of the conclusions in the Senate Select Committee on Intelligence committee report and stated that the Office of the Under Secretary of Defense for Policy inappropriately produced an alternative analysis. The report stated that analysis provided by the Office of the Under Secretary of Defense for Policy exaggerated a connection between Iraq and al-Qaida while the Intelligence Community remained consistently dubious of such a connection.

(U) On September 9, 2005, Senator Pat Roberts, Chairman of the Senate Select Committee on Intelligence, requested that the Office of Inspector General, Department of Defense review whether the Office of Special Plans, "at any time, conducted unauthorized, unlawful or inappropriate intelligence activities." The term Office of Special Plans has become generic terminology for the activities of the Office of the Under Secretary of Defense for Policy, including the Policy Counter Terrorism

[1] DoD Directive 5240.1 defines *Intelligence Activities* as "the collection, production, and dissemination of foreign intelligence and counterintelligence by DoD intelligence components authorized under reference (b)." Reference (b) is Executive Order 12333, United States Intelligence Activities," December 4, 1981.

Group and Policy Support Office. The actual Office of Special Plans had no responsibility for and did not perform any of the activities examined in this review. (Appendix C).

(U) On September 22, 2005, Senator Carl Levin requested the Office of Inspector General, Department of Defense to review the activities of the Office of the Under Secretary of Defense for Policy, including the Policy Counter Terrorism Evaluation Group and Policy Support Office, to determine if any of the activities were either inappropriate or improper and if so, provide recommendations for remedial action. He also provided a list of 10 questions to consider during our review. (Appendix D; Appendix G is our response to the 10 questions).

(U) Results. The Office of the Under Secretary of Defense for Policy developed, produced, and then disseminated alternative intelligence assessments on the Iraq and al-Qaida relationship, which included some conclusions that were inconsistent with the consensus of the Intelligence Community, to senior decision-makers. While such actions were not illegal or unauthorized, the actions were, in our opinion, inappropriate given that the intelligence assessments were intelligence products and did not clearly show the variance with the consensus of the Intelligence Community. This condition occurred because of an expanded role and mission of the Office of the Under Secretary of Defense for Policy from policy formulation to alternative intelligence analysis and dissemination. As a result, the Office of the Under Secretary of Defense for Policy did not provide "the most accurate analysis of intelligence"[2] to senior decision-makers.

(U) Management Comments. The Under Secretary of Defense for Policy and Director, Defense Intelligence Agency provided comments on the draft report. The complete responses are included in the Management Comments section of the report. The Under Secretary of Defense for Policy did not concur with the report stating that their actions were not intelligence activities and, even if they were, would be appropriate given that they were responding to direction from the Deputy Secretary of Defense. Further, he states that their assessment on a "cooperative" Iraq-al Qaida relationship was consistent with the Director of Central Intelligence's own statements to Congress in 2002. The Director, Defense Intelligence Agency comments were administrative in nature and were completely integrated into the final report.

(U) Evaluation Response. The assessments produced evolved from policy to intelligence products, which were then disseminated. The Deputy Secretary of Defense direction made the action authorized; however, we believe the actions were inappropriate

[2] Intelligence Community Directive Number 1 dated May 1, 2006, "Policy Directive for Intelligence Community Leadership" describes Intelligence Analysis "to ensure the most accurate analysis of intelligence is derived from all sources to support national security needs."

because a policy office was producing intelligence products and was not clearly conveying to senior decision-makers the variance with the consensus of the Intelligence Community. The statement of the Director of Central Intelligence included his assessment that "our understanding of the relationship between Iraq and al-Qaida is evolving and is based on sources of varying reliability." Further, analysis of the statement does not support the Under Secretary of Defense for Policy position of a "mature symbiotic relationship" in all areas. The circumstances prevalent in 2002 are no longer present today. We believe that the continuing collaboration between the Under Secretary of Defense for Intelligence and the Office of the Director of National Intelligence will significantly reduce the opportunity for the inappropriate conduct of intelligence activities outside of intelligence channels. As a result, we are not making any recommendations.

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Background (U)

(U) On July 7, 2004, the Senate Select Committee on Intelligence (SSCI) released a classified report, "Report on the U.S. Intelligence Community's Pre-War Intelligence Assessments on Iraq" which was critical of the Intelligence Community's assessments on Iraq. The report further concluded that the "Intelligence Community analysts lacked a consistent post-September 11th approach to analyzing and reporting on terrorism threats."

(U) On October 21, 2004, Senator Carl Levin released an unclassified report that the minority staff of the Senate Armed Services Committee prepared, "Report of an Inquiry into the Alternative Analysis of the Issue of an Iraq-al Qaeda Relationship." The report challenged some of the conclusions in the SSCI report, stating that the Office of the Under Secretary of Defense for Policy [OUSD(P)] inappropriately produced an alternative analysis, and described that analysis of the relationship between Iraq and al-Qaida as one of "operational cooperation." The report stated that the OUSD(P) exaggerated Iraq's relationship with al-Qaida primarily to support the Administration's policy aims to find a strong connection between Iraq and al-Qaida. Further, the Intelligence Community consistently doubted such a connection.

(U) On September 9, 2005, Senator Pat Roberts, Chairman of the Senate Select Committee on Intelligence, requested that the Office of Inspector General, Department of Defense review whether the Office of Special Plans (OSP), "at any time, conducted unauthorized, unlawful or inappropriate intelligence activities." (See Appendix C.) The term OSP has become generic terminology for the activities of the OUSD(P), including the Policy Counter Terrorism Evaluation Group (PCTEG) and Policy Support Office. The actual OSP had no responsibility for and did not perform any of the activities examined in this review.

(U) On September 22, 2005, Senator Carl Levin requested that the Office of Inspector General, Department of Defense review the activities of the OUSD(P), including the PCTEG and Policy Support Office to determine whether any of their activities were either inappropriate or improper, and, if so, provide recommendations for remedial action. He also provided 10 questions for us to consider during the review. (See Appendix D; Appendix G is the evaluators' response to the 10 questions.)

(U) Under Secretary of Defense for Policy. The USD(P) is the principal staff assistant and advisor to the Secretary of Defense and the Deputy Secretary of Defense for all matters on the formulation of national security and defense policy and the integration and oversight of DoD policy and plans to achieve national security objectives as defined by DoD Directive 5111.1, December 8, 1999.

~~(S)~~ **Assistant Secretary of Defense, Office of International Security Affairs [ASD (ISA)].** The Office of International Security Affairs formulates and coordinates international security strategy and policy for OUSD(P) on issues of DoD interest that relate to foreign regions and nations, their governments, and the defense establishments. ASD(ISA) was instrumental early in 2002 in responding to the inquiries of the Deputy Secretary of Defense regarding links between Iraq and al-Qaida.

~~(S)~~ **Policy Support Office.** The Policy Support Office assisted the OUSD(P) in developing national security and defense policy by providing infrastructure support, personnel, and information technology and security until June 2002, when it transferred to the newly created Office of the Under Secretary of Defense for Intelligence. The Policy Support Office requested detailees from the Defense Intelligence Agency (DIA) because of "the voluminous amounts of intelligence the office was receiving but was unable to assess." From January 2002 through November 2003 DIA detailed an intelligence specialist to the Policy Support Office within the OUSD(P).

~~(S)~~ **The Policy Counter Terrorism Evaluation Group.** According to an Action Memo dated November 26, 2001, for the Deputy Secretary of Defense from the ASD (ISA), the purpose was to "Obtain approval of creation of a Team B, called the Policy Counter Terror Evaluation Group (PCTEG). Through independent analysis and evaluation, the PCTEG would determine what is known about al-Qaida's worldwide terror network, its suppliers, and relationship to states and other international terrorist organizations..."

~~(S)~~ As envisioned the PCTEG would function under the joint chairmanship of the Principal Deputy Assistant Secretary of Defense for Special Operations/Low Intensity Conflict and the Deputy Assistant Secretary of Defense for Near East and South Asia Affairs. The ASD(ISA), with permission from the USD(P), tasked the PCTEG with studying al-Qaida's worldwide organization, including its suppliers, its relations with States and with other terrorist organizations (and their suppliers), identifying "chokepoints" of cooperation, coordination, and vulnerabilities, and recommending strategies to render the terrorist networks ineffective. The PCTEG, however, never included more than two analysts so the Chairmanship issue never attained a level of operational formality. In letters to Senator Warner and Representative Harman on June 21, 2003, Mr. Feith, then USD(P), described the purpose of the PCTEG as to "help me develop proposals for Defense Department strategies for the war on terrorism, which is a policy exercise, not an intelligence activity."

~~(S/NF)~~ Following a USD(P) request to the Director, DIA for support from the Intelligence Community, DIA detailed two junior Naval Reservist Intelligence Analysts to OUSD(P) in February 2002 to replace the two existing OUSD(P)

members. The PCTEG produced a briefing in support of policy development in June 2002, "Understanding the Strategic Threat of Terror Networks and their Sponsors."

~~(S//NF)~~ During the summer of 2002, following the deactivation of one of the two Naval Reservists, the one remaining detailed intelligence analyst reviewed intelligence data to determine whether there were links between Iraq and al-Qaida. At the direction of the Deputy Secretary of Defense, the Special Assistant to the Deputy Secretary of Defense, a member of the OUSD(P) Policy Support Office, and the remaining PCTEG detailee collaborated to create a briefing, marked "Draft," "Assessing the Relationship Between Iraq and al-Qaida," which they briefed to the Secretary of Defense on August 8, 2002. On August 15, 2002, they provided a similar briefing, marked "Draft," with the same title to Mr. George Tenet, then Director of Central Intelligence (DCI) and VADM Lowell "Jake" Jacoby, then Director, DIA. On September 16, 2002, the OUSD(P) provided a similar version of the briefing, marked "Draft," to Mr. Stephen Hadley, then Deputy National Security Advisor, as requested, and Mr. I. Lewis Libby, then Chief of Staff of the Office of the Vice President. The PCTEG as an organization ceased to exist shortly thereafter.

(U) **The Office of Special Plans.** The OUSD(P) created the OSP in October 2002 by renaming and expanding the OUSD(P) Near East and South Asia office's Northern Gulf Directorate to concentrate on policies for Iran, Iraq, and the Global War on Terror. In his June 21, 2003, letters to Senator Warner and Representative Harman, Mr. Feith described the OSP as a policy planning group and a consumer, rather than a producer of intelligence. In a February 3, 2004, letter to Senator Levin, Mr. Feith described the purpose of the OSP as having been, "...created to serve as the regional office for Northern (Persian) Gulf affairs and as the lead office within the Policy organization of the Office of the Secretary of Defense (OSD) for developing U.S. strategy and policy for the global war on terrorism." The OSP was renamed as the Office of Northern Gulf Affairs, remaining in Near East/South Asia as before, and its personnel continued to perform their policy functions for that region.

Objectives (U)

(U) The review objective was to determine whether personnel assigned to the OSP, the PCTEG, and the OUSD(P) conducted unauthorized, unlawful, or inappropriate intelligence activities from September 2001 through June 2003. If so, the OIG was to provide recommendations for remedial action. See Appendix A for a discussion of the scope and methodology and related report coverage.

Office of the Under Secretary of Defense for Policy's Use of Intelligence (U)

(U) Those charged with protecting America must have the best possible intelligence information, and that information must be closely integrated to form the clearest possible picture of the threats to our country.
President George W. Bush
December 17, 2004

(U) The Office of the Under Secretary of Defense for Policy [OUSD(P)] developed, produced, and then disseminated alternative intelligence assessments on the Iraq and al-Qaida relationship, which included some conclusions that were inconsistent with the consensus of the Intelligence Community, to senior decision-makers. While such actions were not illegal or unauthorized, the actions were, in our opinion, inappropriate given that the products did not clearly show the variance with the consensus of the Intelligence Community and were, in some cases, shown as intelligence products. This condition occurred because the OUSD(P) expanded its role and mission from formulating Defense Policy to analyzing and disseminating alternative intelligence. As a result, the OUSD(P) did not provide "the most accurate analysis of intelligence" to senior decision makers.

Guidance (U)

(U) DoD Directive 5111.1. DoD Directive 5111.1, "Under Secretary of Defense for Policy [USD(P)]," December 8, 1999, designates the USD(P) as the principal staff assistant and advisor to the Secretary and Deputy Secretary of Defense for all matters on formulating national security and defense policy. The Directive also states that the USD(P) will perform such other functions as the Secretary of Defense may prescribe.

(U) DoD Directive 5240.1. DoD Directive 5240.1, "DoD Intelligence Activities," April 25, 1988, is the guidance that DoD intelligence components use to collect, retain, or disseminate information. DoD Directive 5240.1 defines "Intelligence Activities" as "the collection, production, and dissemination of foreign intelligence and counterintelligence by DoD intelligence components authorized under reference (b)." Reference (b) is Executive Order 12333, "United States Intelligence Activities," December 4, 1981. The OUSD(P) is not a designated Intelligence Activity.

(U) DoD Directive 5105.21. DoD Directive 5105.21, "Defense Intelligence Agency," February 18, 1997, details the DIA mission to "satisfy, or ensure the satisfaction of, the military and military-related intelligence requirements of the Secretary and Deputy Secretary of Defense..." The Director, DIA is "the principal advisor on substantive intelligence matters to the Secretary and Deputy Secretary of Defense..." The Executive Order 12333 lists the DIA as a designated Intelligence Activity.

(U) DIA Policy No: 005. On June 5, 2001, the DIA Directorate for Analysis and Production issued DI policy No. 005, "Alternative Judgments Policy," which states that the principal goal of intelligence analysis is to provide customers with the most expert, focused, and multi-disciplinary judgments possible. The policy memo recognizes the value of ideas and concepts that run counter to the prevailing wisdom, by establishing a process within the Intelligence Community for using alternative judgments.

OUSD(P)'s Production and Dissemination of Alternative Intelligence Assessments (U)

~~(S)~~ The OUSD(P) inappropriately developed, produced, and disseminated to senior decision makers alternative intelligence assessments on the Iraq and al-Qaida relationship, which included some conclusions that were inconsistent with the consensus of the Intelligence Community. In its advisory role to the Secretary and Deputy Secretary of Defense, the OUSD(P) requested DIA detailees to perform activities such as assisting in formulating national security and defense policy. In formulating policy, it is appropriate to obtain from and challenge the Intelligence Community to provide support for its Intelligence Findings. As stated in the SSCI Report,[3] "The Committee found that this process—the policymakers' probing questions—actually improved the products." However, the intelligence analyst detailees assisted in or produced alternative intelligence assessments that included some conclusions that were inconsistent with those that the chartered-Intelligence Community vetted and produced.

~~(S//NF)~~ **OUSD(P) Used All Available Intelligence.** The USD(P) requested and received detailees from DIA who had access to intelligence databases. The DIA detailees were assigned to the Policy Support Office

[3] (U) SSCI (Report), "Report on the U.S. Intelligence Community's Pre-War Intelligence Assessments on Iraq," July 7, 2004.

and PCTEG in 2002. In addition, other DIA Defense Intelligence Officers were assigned to support OUSD(P). The detailees and the DIA Defense Intelligence Officers had access to intelligence databases such as the DIA Joint Worldwide Intelligence Communications System. Interviews revealed that DIA detailees and DIA Defense Intelligence Officers pulled both raw intelligence and finished intelligence production from Joint Worldwide Intelligence Communications System and provided it to OUSD(P) personnel. The DIA Defense Intelligence Officers also provided daily intelligence read packets until their dissolution in the spring of 2003.

~~(S//NF)~~ **The OUSD(P) Produced Alternative Intelligence Assessments.** Interviews confirmed that DIA detailees conducted independent intelligence analysis for the OUSD(P) that resulted in analytic conclusions and products. While working for the OUSD(P) staff, the detailees performed intelligence analysis and, in several cases, intelligence production, which was not one of USD(P)'s specified functions in DoD Directive 5111.1, "Under Secretary of Defense for Policy."

~~(S//NF)~~ OUSD(P) personnel and the DIA detailees used the same intelligence information as the Intelligence Community to produce their alternative intelligence assessments. In a July 25, 2002 memo, "Iraq and al-Qaida: Making the Case," one OUSD(P) detailee explained the basis for their alternative intelligence assessment, stating, "the following information clearly makes the case for an *Intelligence Finding* (emphasis added)—that Iraq has been complicit in supporting al-Qaida terrorist activities." Further, in translating that alternative intelligence assessment into a briefing, "Assessing the Relationship Between Iraq and al-Qaida," the OUSD(P) performed Intelligence Activity and, more specifically, Intelligence Production.

~~(S//NF)~~ Some of the conclusions in the briefing, "Assessing the Relationship between Iraq and al-Qaida," produced by a collaborative team composed of two OUSD(P) detailees and a former OUSD(P) member who was working in the capacity of Special Assistant to the Deputy Secretary of Defense, were not supported by the Intelligence Community. In fact, the briefing assessed that, "Intelligence indicates cooperation [with al-Qaida] in all categories; mature, symbiotic relationship," and as having a higher degree of cooperation than those conclusions supported by the Intelligence Community. The briefing detailed a relationship between Iraq and al-Qaida in three versions of their briefing, "Assessing the Relationship between Iraq and al-Qaida." Each version included a slide, "What Would Each Side Want From a

Relationship?" According to the briefing, one of Iraq's objectives was a desire for an "Operational surrogate to continue war;" the slide listed al-Qaida as that surrogate. Further, OUSD(P) members briefed an alleged meeting between the 9/11 hijacker Mohammed Atta and al-Ani, an Iraqi Intelligence Service Officer on a slide, "Known Contacts" in all three versions of this brief. The Intelligence Community disagreed with the briefing's assessment that the alleged meeting constituted a "known contact."

~~(S//NF)~~ **Intelligence Community's Intelligence Judgments.** The assessment of the relationship between Iraq and al-Qaida, detailed in both the briefing, "Assessing the Relationship between Iraq and al-Qaida," and the July 25, 2002 memorandum were inconsistent with the Intelligence Community's assessment. The Central Intelligence Agency (CIA) and DIA had published intelligence products with a decidedly different assessment. By the summer of 2002, before OUSD(P) members disseminated the briefing containing an alternative intelligence assessment about the Iraq and al-Qaida relationship, both the DIA and CIA published reports that disavowed any "mature, symbiotic" cooperation between Iraq and al-Qaida. The Intelligence Community was united in its assessment that the intelligence on the alleged meeting between Mohammed Atta and al-Ani was at least contradictory, but by no means a "known contact." The SSCI Phase I Report noted that, "Although the CIA has not ruled out the meeting, its analysis characterized the meeting as highly unlikely."

~~(S//NF)~~ **CIA's Intelligence Judgment.** On June 21, 2002, the CIA published a report, "Iraq and al-Qaida: Interpreting a Murky Relationship," which described the reporting on the alleged meeting of Atta with al-Ani as, "...contradictory, and we have not verified Atta's travel through other channels." The report also stated the CIA view on the Iraq-al-Qaida cooperation as, "Overall, the reporting provides *no conclusive signs of cooperation* (emphasis added) on specific terrorist operations, so discussion of the possible extent of cooperation between Iraq and al-Qa'ida is necessarily speculative."

~~(S//NF)~~ Likewise, a draft August 20, 2002, CIA Report, "Iraqi Support for Terrorism"[4] characterized the connection between Iraq and al-Qaida as follows:

> ~~(S//NF)~~ Saddam and Bin Ladin are not natural partners, but have maintained cautious contacts and some shared training. The two

[4] The final version of this report was published September 19, 2002.

b(1)

groups nevertheless remained suspicious of each other's motives, and to date we cannot document any joint operational activity between them.

~~(S//NF)~~ **DIA's Intelligence Judgment.** On July 31, 2002, DIA published a Special Assessment, "Iraq's Inconclusive Ties to Al-Qaida," which described the alleged meeting of Atta with al-Ani as having "significant information gaps that render the issue impossible to prove or disprove with available information." The assessment further stated that "compelling evidence demonstrating *direct cooperation* (emphasis added) between the government of Iraq and al-Qaida *has not been established* (emphasis added), despite a large body of anecdotal information."

~~(S//NF)~~ The Intelligence Community's assessment of the Iraq connection with al-Qaida was decidedly less "mature" and by no means "symbiotic" in all categories as the OUSD(P) alleged in its alternative assessment detailed in both the July 25, 2002, memorandum and the briefing, "Assessing the Relationship between Iraq and al-Qaida." In no case did the Intelligence Community's assessment support the assertion that "Intelligence indicates cooperation in all categories; mature, symbiotic relationship." The terms that the Intelligence Community used to describe the relationship between Iraq and al-Qaida were "no conclusive signs," and "direct cooperation... has not been established." Equally, the Intelligence Community disputed the assertion found in the briefing, "Assessing the Relationship between Iraq and al-Qaida," that the alleged meeting of Atta with al-Ani was "known." The Intelligence Community described the meeting as "impossible to prove or disprove" and "contradictory".

~~(S//NF)~~ **Joint Intelligence Task Force – Combating Terrorism (JITF-CT) Judgment.** A DIA Senior Intelligence Analyst working in the Joint Intelligence Task Force – Combating Terrorism (JITF-CT) countered, point-by-point, each instance of an alleged tie between Iraq and al-Qaida mentioned in the July 25, 2002, OUSD(P) memorandum, "Iraq and al-Qaida: Making the Case." The Intelligence Analyst disagreed with most of the OUSD(P) intelligence assessments. Of the 26 points used to support the "Intelligence Finding—that Iraq has been complicit in supporting al-Qaida terrorist activities," the JITF-CT agreed or partially agreed with 11 of the 26. Two OUSD(P) slides, presented as part of a larger briefing to the Secretary of Defense, the DCI, and the Deputy National Security Advisor and Chief of Staff of the Office of the Vice President, each titled "Known Contacts," were extracted from the OUSD(P) paper. On August 9, 2002, in a Memorandum, "JITF-CT Commentary: Iraq and al-Qaida, Making the Case" the JITF-CT

Intelligence Analyst noted that the OUSD(P) memorandum was of "no intelligence value;" in other words, the memorandum's assessments contradicted the Intelligence Community assessments on both the Iraq relationship with al-Qaida and, specifically, the veracity of the alleged meeting in Prague. He provided his assessment to the Joint Staff J2 for internal consumption. On August 14, 2002, in response to another internal J2 request, the JITF-CT Intelligence Analyst wrote a more detailed Memorandum, "DUSD(PS) Assessment on Iraq-al-Qaida Ties JITF-CT Response," specifically stating that far from being a "known contact," the "alleged 8 or 9 April 2001 meeting between Iraqi Intelligence Service officer Ibrahim al-Ani and al-Qaida operative Muhammad Atta is impossible to establish with available information."

(U) Without Intelligence Community consensus, OUSD(P) officials briefed the alternative intelligence assessment to senior decision makers within the DoD and the Federal Government. The July 25, 2002, memorandum was written in preparation for the August 2002 briefing to the Secretary of Defense. On August 8, 2002, OUSD(P) members presented their briefing, "Assessing the Relationship Between Iraq and al-Qaida" to the Secretary of Defense. The briefing portrayed a "mature, symbiotic" relationship between Iraq and al-Qaida. The Secretary of Defense directed that OUSD(P) brief the DCI. The OUSD(P) eventually presented three different versions of this briefing to the Secretary of Defense, the DCI, and the Deputy National Security Advisor and the Chief of Staff of the Office of the Vice President.

External Dissemination of OUSD(P) Alternative Intelligence Assessment (U)

~~(S//NF)~~ In response to the Secretary of Defense direction, on August 15, 2002, with the USD(P) in attendance, his staffers presented the briefing, "Assessing the Relationship Between Iraq and al-Qaida," to the DCI, then Mr. George Tenet. Mr. Tenet invited VADM Jacoby, then Director, DIA to attend the briefing. Despite the continued marking as "Draft," the briefing external to DoD, in our opinion, constituted dissemination. This version of the briefing presented to the DCI omitted the slide, "Fundamental Problems with How Intelligence Community is Assessing Information" because, according to Mr. Feith, "it had a critical tone." The content of the excluded slide accuses the Intelligence Community of applying a standard requiring juridical evidence for reports, underestimating the importance for both Iraq and al-Qaida to keep their relationship hidden, and assuming that the two would not cooperate

because of religious differences. Additionally, the details regarding the alleged meeting between Mohammed Atta and al-Ani were discussed only on the slide, "Known Contacts," which portrayed the meeting as fact. The Intelligence Community previously disagreed with the assertions in this briefing on the veracity of the alleged meeting between Mohammad Atta and al-Ani and the level of cooperation that the OUSD(P) members ascribed to Iraq and al-Qaida in widely available Intelligence products produced in the spring and summer of 2002.

~~(S//NF)~~ After the USD(P) and his staff departed, the DCI told the Director, DIA to "get this back into analytical channels and out of Policy channels." When we asked the former Director, DIA why he did not take action, he replied that it had fallen off his scope.

~~(S//NF)~~ Mr. Tenet also directed the Intelligence Community to meet with OUSD(P) to discuss the contents of the briefing in relation to a pending CIA Report, "Iraqi Support for Terrorism." As a result, on August 20, 2002, the Intelligence Community held a roundtable discussion on the draft CIA Report, "Iraqi Support for Terrorism" in which members of the OUSD(P) participated fully. The Intelligence Community incorporated some of the OUSD(P) staffers' concerns, mostly about Iraq and al-Qaida ties. The CIA was willing to add footnotes to its report stating that the conclusions represented by the OUSD(P) staffers differed from the CIA paper's findings. The OUSD(P) staffers correctly declined, however, stating that they were acting in a policy capacity and were unable to speak for Defense Intelligence. This indicates that the OUSD(P) staffers knew the limits of their position as detailees to OUSD(P).

~~(S//NF)~~ According to the Under Secretary of Defense for Policy comments to the draft report, following a reference to the briefing at a Deputies Committee meeting in August 2002, the Deputy National Security Advisor requested to receive the briefing.[5] On September 16, 2002, members of OUSD(P) and the Special Assistant to the Deputy Secretary of Defense presented the briefing, "Assessing the Relationship Between Iraq and al-Qaida" to Mr. Stephen Hadley, then Deputy National Security Advisor, as requested, and Mr. I. Lewis Libby, then Chief of Staff of the Office of the Vice President. This version of the briefing included the slide "Fundamental Problems with How Intelligence Community is Assessing Information," which had been presented to the Secretary of Defense but omitted from the DCI briefing. The slide accuses the Intelligence Community of applying a standard requiring

[5] During our review we neither found nor when asked, was the OUSD(P) able to provide any documentation to support this chain of events.

juridical evidence for reports, underestimating the importance for both Iraq and al-Qaida to keep their relationship hidden, and assuming that the two would not cooperate because of religious differences. This presentation also included a slide that had not appeared in previous versions of the briefing, "Facilitation: Atta Meeting in Prague," which discussed the alleged meeting between Mohammad Atta and al-Ani in April 2001 in Prague without caveats regarding Intelligence Community consensus.

~~(S//NF)~~ The Intelligence Community's assessment had not changed. The draft August 20, 2002, CIA Report, "Iraqi Support for Terrorism," discussed the relationship between Iraq and al-Qaida as "much less clearcut ... appears to more closely resemble that of two organizations trying to feel out or exploit each other." As far as knowledge or implication in 9/11 goes, the report offers, "no conclusive indication of Iraqi complicity or foreknowledge in the 11 September attacks." Further, the report cites "no conclusive reporting that al-Qa'ida and Iraq collaborated on terrorist operations," and called the reporting on the alleged meeting between Atta and al-Ani as "inconclusive."

(U) The OUSD(P) did not provide "the most accurate analysis of intelligence" to senior decision makers. As this report states, the OUSD(P) produced and disseminated alternative intelligence assessments that included some conclusions that were not supported by the consensus of the Intelligence Community. The Intelligence Community discounted conclusions about the high degree of cooperation between Iraq and al-Qaida; yet the decision makers were given information describing the relationship as "known contacts" or as factual conclusions.[6]

Expanded Role and Mission of the Office of the Under Secretary of Defense for Policy (U)

(U) The OUSD(P) developed and produced alternative intelligence assessments as a result of its expanded roles and mission which evolved in 2001 and 2002 from formulating Defense Policy to critiquing Intelligence Products to conducting Intelligence Activities.

[6] Noteworthy is that post-war debriefs of Sadaam Hussein, Tariq Aziz, al-Tikriti, and al-Libi as well as document exploitation by DIA all confirmed that the Intelligence Community was correct: Iraq and al-Qaida did not cooperate in all categories. The terms the Intelligence Community used to describe the relationship between Iraq and al-Qaida were validated, "no conclusive signs," and "direct cooperation... has not been established."

~~(S//NF)~~ Even before assigning the DIA detailees to the PCTEG and Policy Support Office, the OUSD(P) was obtaining large volumes of intelligence information. In November 2001, the OUSD(P) requested detailees from DIA because of "the voluminous amounts of intelligence the office was receiving. but was unable to assess." The additional personnel provided the OUSD(P) with access to Intelligence databases. Such access and use of DIA detailees is appropriate for Defense policy formulation. The June 2002 PCTEG briefing, "Understanding the Strategic Threat of Terror Networks and their Sponsors," is an example of an appropriate application of intelligence information. On July 9, 2002, at the direction of the Deputy ASD(ISA), in the only case of intelligence critique, the Policy Support Office provided an analysis of a CIA Report, "Iraq and al-Qaida: Interpreting A Murky Relationship" to the USD(P) suggesting that the "CIA's interpretation ought to be ignored." However, policy development and intelligence critique evolved into Intelligence Analysis and eventually culminated in the Intelligence Activity of Intelligence Production. The detailees created alternate intelligence assessments and briefed the Secretary of Defense and then disseminated the assessment to the DCI, the Deputy National Security Advisor, and the Chief of Staff of the Office of the Vice President.

~~(S//NF)~~ The mission and role of the OUSD(P) expanded, based, in part, in response to inquiries from the Deputy Secretary of Defense. For example, instead of directing a January 22, 2002, memorandum to the Assistant Secretary of Defense for Command, Control, Communication and Intelligence or the Director, DIA, the Deputy Secretary of Defense directed a memorandum to the USD(P), requesting "input on the progress in pulling together intelligence links between Iraq and al-Qaida" (Appendix E). It appears that the analysis was an on-going effort.

~~(S//NF)~~ The ASD(ISA) responded to the Deputy Secretary of Defense on January 24, 2002 (Appendix F). Part of the response stated, "So far we have discovered few direct links. However, we have uncovered evidence suggesting more robust indirect links." The cited direct links included the information that Muhammad Atta met twice in Prague with Iraqi Intelligence Service Prague station chief, al-Ani.

~~(S//NF)~~ The ASD(ISA) did not discuss whether the Intelligence Community agreed or disagreed with any of the direct or indirect links identified in the January 24, 2002, product but in a handwritten note, the USD(P) requested, "DSD [Deputy Secretary of Defense], should we organize a briefing for you to review the underlying intel?"

~~(S)~~ Further, in July 2002, based on a conversation one DIA detailee had with the Special Assistant to the Deputy Secretary of Defense, in what she understood to be a response to a request from the Deputy Secretary of Defense to prepare an "intel briefing" on Iraq and links to al-Qaida, in August 2002, two OUSD(P) members and the Special Assistant to the Deputy Secretary of Defense collaborated on creating a briefing with intelligence assessments that were inconsistent with those of the Intelligence Community.

(U) The OUSD(P), in responding to requests from the Deputy Secretary of Defense or Secretary of Defense, may find it necessary to base its work on material that the Intelligence Community produces. It is also appropriate for OUSD(P) to disagree with the Intelligence Community. The OUSD(P) may advance policy assessments reflecting an alternate assessment; however, the OUSD(P) should clearly reflect any disagreement or variance with the Intelligence Community's assessments and not provide its own intelligence products. The alternative intelligence assessments and the intelligence finding show that the OUSD(P) was producing intelligence products and that the products did not clearly show the areas where OUSD(P) disagreed with the Intelligence Community. As a result, we consider those actions inappropriate.

(U) We recognize that the OUSD(P) performed some of the actions in response to inquiries regarding intelligence briefings from the Deputy Secretary of Defense and at the direction of the Secretary of Defense. One of the specified functions in DoD Directive 5111.1 requires OUSD(P) to "perform such other functions, as the Secretary of Defense may prescribe." As a result, we consider the actions of the OUSD(P) were not illegal or unauthorized.

Inadequate Procedures (U)

(U) The OUSD(P) developed, produced, and disseminated alternative intelligence assessments which included some conclusions that were inconsistent with the Intelligence Community's vetted intelligence products because procedures for preparing alternative assessments were insufficient to ensure that the OUSD(P) products clearly reflected any disagreements or variance with the Intelligence Community. Although not required, the OUSD(P) could have used the DIA detailees to follow the existing DIA procedures to request an Alternative Judgment on the relationship between Iraq and al-Qaida from the Defense Intelligence community. Two DIA personnel detailed to OUSD(P) should have been aware of existing procedures and could have used them.

(U) DIA DI Policy No. 005 explains the methods that Defense Intelligence uses to address alternative judgments in those rare instances where consensus cannot be reached.

(U) The first and preferred method for incorporating an alternative analysis is through the standard process of coordination. Analysts are expected to marshal their facts, build coherent arguments, and defend those arguments while coordinating with other experts across the Intelligence Community. In the vast majority of cases, analytic judgments either stand or fall on the merits of their evidentiary base, intrinsic logic and quality. In those rare instances where analysts build a strong case, but cannot achieve consensus support for their analysis, an alternative judgment is justified.

~~(S//NF)~~ While the DIA DI Policy does not apply to OUSD(P) personnel, we believe that the DIA detailee who prepared the July 25, 2002, memorandum, "Iraq and al-Qaida: Making the Case," could have used the standard coordination process to obtain consensus from the Intelligence Community or followed the procedures for developing an Alternative Judgment. Instead, the DIA detailee provided the July 25, 2002, memorandum as an appeal to publish the alternative intelligence assessment as an "Intelligence Finding." In spite of never gaining Intelligence Community agreement to publish the alternative intelligence assessments as an Intelligence Finding, the OUSD(P) disseminated the briefing, "Assessing the Relationship Between Iraq and al-Qaida" in August 2002 produced from the July 25, 2002, memorandum.

Subsequent Action (U)

(U) In 2003, Congress and the Administration acted to strengthen and consolidate the administration of the Defense Department's intelligence capabilities by creating the statutory position of the Under Secretary of Defense for Intelligence that incorporated the intelligence component of the Assistant Secretary of Defense for Command, Control, Communications, and Intelligence.

(U) The "Intelligence Reform and Terrorism Prevention Act of 2004" established both the position of the Director of National Intelligence (DNI) and the National Counterterrorism Center. The DNI is now the principal advisor to the President of the United States and the National Security Council for intelligence matters related to national security. The law also established the DNI position as the sole leader of the United States Intelligence Community responsible for planning, policy,

management, integration, and oversight. The National Counterterrorism Center acts as the principal advisor to the DNI on intelligence operations and analysis relating to counterterrorism.

(U) The National Intelligence Council responds to the DNI and continues to "serve as a unique bridge between the intelligence and policy communities, a source of deep substantive expertise on intelligence matters, and as a facilitator of Intelligence Community collaboration." The National Intelligence Council is the only organization that provides policy makers with a coordinated assessment of the Intelligence Community's views on critical issues.

(U) Within the Office of the DNI, the Assistant Deputy Director for Analytic Integrity and Standards assists all Intelligence Community agencies to foster regular production of independent, alternative, and competitive analyses. Specifically, the Analytic Ombudsman works on a confidential basis with analysts who wish to raise concerns regarding whether intelligence products are timely, objective, independent of political considerations, based on all sources of available intelligence, account for dissenting views, distort intelligence analysis, or employ proper analytic tradecraft. The Analytic Ombudsman is a fact finder, mediator, and facilitator to promote conflict resolution, and helps resolve problems and disputes through formal counseling, conciliation, and enhanced communication, as well as making recommendations to the individuals involved.

(U) DoD Directive 5143.01, "Under Secretary of Defense for Intelligence (USD(I))," November 23, 2005, established the Under Secretary of Defense for Intelligence as the Principal Staff Advisor to the Secretary and Deputy Secretary of Defense regarding intelligence, counterintelligence, security, sensitive activities, and other intelligence-related matters. It further stated that the Under Secretary shall serve as the Secretary of Defense's primary representative to the Office of the Director of National Intelligence as well as provide policy and oversight on the training and career development of personnel in DoD counterterrorism, intelligence, and security components.

Conclusion (U)

(U) The Office of the Under Secretary of Defense for Policy developed, produced, and then disseminated alternative intelligence assessments on the Iraq and al-Qaida relationship, which included some conclusions that were inconsistent with the consensus of the Intelligence Community, to

senior decision-makers. While such actions were not illegal or unauthorized, the actions were, in our opinion, inappropriate given that the intelligence assessments were intelligence products and did not clearly show the variance with the consensus of the Intelligence Community. This condition occurred because of an expanded role and mission of the OUSD(P) from policy formulation to alternative intelligence analysis and dissemination. As a result, OUSD(P) did not provide "the most accurate analysis of intelligence" to senior Defense decision makers.

(U) The circumstances prevalent in 2002 are no longer present today. The dissolution of the OUSD(P) Policy Support Office, the PCTEG, and the OSP; the creation of the Under Secretary of Defense for Intelligence; and the aggressive efforts of the Director of National Intelligence's National Intelligence Council and Analytic Integrity and Standards have all contributed to a more favorable operational environment. We believe that the continuing collaboration between the Under Secretary of Defense for Intelligence and the Office of the Director of National Intelligence will significantly reduce the opportunity for the inappropriate conduct of intelligence activities outside of intelligence channels. As a result, we are not making any recommendations.

Management Comments and Response

(U) Management Comments. The Under Secretary of Defense for Policy and Director, Defense Intelligence Agency provided comments on the draft report. The complete responses are included in the Management Comments section of the report. The Under Secretary of Defense for Policy did not concur with the report stating that their actions were not intelligence activities and, even if they were, would be appropriate given that they were responding to direction from the Deputy Secretary of Defense. Further, he states that their assessment on a "cooperative" Iraq-al Qaida relationship was consistent with the DCI's own statements to Congress in 2002. The Director, Defense Intelligence Agency comments were administrative in nature and were completely integrated into the final report.

(U) Evaluation Response. The assessments produced evolved from policy to intelligence products, which were then disseminated. The Deputy Secretary of Defense direction made the action authorized; however, we believe the actions were inappropriate because a policy office was producing intelligence products and was not clearly conveying to senior decision-makers the variance with the consensus of the Intelligence Community. The statement of the DCI included his

assessment that "our understanding of the relationship between Iraq and al-Qaida is evolving and is based on sources of varying reliability." Further, analysis of the statement does not support the OUSD(P) position of a "mature symbiotic relationship" in all areas.

Appendix A. Scope and Methodology (U)

(U) The primary scope of the project was to determine whether the OUSD(P) offices and activities of the former OSP and PCTEG organizations, "...at any time, conducted unauthorized, unlawful or inappropriate intelligence activities." We met with personnel assigned to the OSP, the PCTEG, and the OUSD(P) from September 2001 through June 2003. We performed this review from November 2005 through November 2006 in accordance with the "Quality Standards for Federal Offices of Inspector General."

(U) To achieve our objective, we:

- Interviewed 75 current or former personnel associated with the following organizations:
  - White House Staff (National Security Council);
  - Office of the Director of National Intelligence;
  - Office of the Secretary of Defense:
  - Office of the Under Secretary of Defense for Policy;
  - Office of the Under Secretary of Defense for Intelligence; and
  - Office of the Assistant Secretary of Defense for Command, Control, Communications, and Intelligence
  - Department of the Army;
  - Department of the Navy;
  - Department of the Air Force;
  - U.S. Central Command;
  - Central Intelligence Agency;
  - Federal Bureau of Investigation;
  - Defense Intelligence Agency;
  - U.S. Department of State;
  - National Defense University;
  - Civilian contractors

- Reviewed unclassified and classified documentation produced and available from September 2001 through June 2003 including DoD Directives, testimony, guidance, procedures, reports, studies, briefings, message traffic, e-mails, first-hand accounts, memoranda, and other official data on prewar intelligence and the specific areas of inquiry posed by Congress.

- Assessed information from the SSCI and documents from OUSD(P).

(U) Use of Computer-Processed Data. We did not use computer-processed data to perform this evaluation.

(U) Use of Technical Assistance. The High Tech Crimes Unit, Defense Criminal Investigative Service, assisted us in imaging computer hard-drives to acquire copies of pertinent documents from a Government-owned, classified computer.

(U) Government Accountability Office High-Risk Area. While this evaluation does not specifically address a Government Accountability Office high-risk area, it does address a Secretary of Defense Priority – Significantly improve Intelligence Capabilities.

Appendix B. Prior Coverage (U)

Congress (U)

(U) SSCI (Phase I Report), "Report on the U.S. Intelligence Community's Pre-War Intelligence Assessments on Iraq," July 7, 2004. (Classified)

(U) Senator Carl Levin, Ranking Member on the Senate Committee on Armed Services, "Report of an Inquiry into the Alternative Analysis of the issue of an Iraq-al Qaeda Relationship (U)," October 21, 2004.

(U) SSCI (Phase II Report), "Report on Postwar Findings about Iraq's WMD [Weapons of Mass Destruction] Programs and Links to Terrorism and How They Compare with Pre-War Assessment," September 8, 2006. (Classified)

Appendix C. Senator Roberts' Request (U)

United States Senate

September 9, 2005

The Honorable Joseph E. Schmitz
Inspector General
Department of Defense
400 Army Navy Drive
Arlington, VA 22202

Dear Mr. Schmitz:

The Committee is concerned about persistent and, to date, unsubstantiated allegations that there was something unlawful or improper about the activities of the Office of Special Plans within the office of the Under Secretary of Defense for Policy during the period prior to the initiation of Operation Iraqi Freedom. The Senate Armed Services Committee and Senate Select Committee on Intelligence have both examined this issue. Both staffs have reviewed thousands of documents and conducted numerous interviews. Under Secretary Feith has appeared before both Committees to testify on this issue. I have not discovered any credible evidence of unlawful or improper activity, yet the allegations persist.

Accordingly, I request that you immediately initiate an investigation into the activities of the Office of Special Plans during the period prior to the initiation of Operation Iraqi Freedom to determine whether any of these activities were unlawful or improper. The Committee is specifically interested in knowing whether the personnel assigned to the Office of Special Plans, at any time, conducted unauthorized, unlawful or inappropriate intelligence activities.

I believe that an independent review into this matter may allow it to finally be resolved. I look forward to hearing from you.

Sincerely,

Pat Roberts
Chairman

Appendix D. Senator Levin's Request (U)

United States Senate
COMMITTEE ON ARMED SERVICES
WASHINGTON, DC 20510-6050

September 22, 2005

Mr. Tom Gimble
Acting Inspector General
Department of Defense
400 Army-Navy Drive
Arlington, VA 22202

Dear Mr. Gimble:

The Chairman of the Senate Select Committee on Intelligence has recently requested that your office initiate an investigation into the activities of the Office of Special Plans, within the Office of the Under Secretary of Defense for Policy, prior to the war in Iraq to determine if its activities were either unlawful or improper.

I am writing to request that you include all the elements of the Office of the Under Secretary of Defense for Policy, including the Policy Counter Terrorism Evaluation Group (PCTEG), and the Policy Support office. Personnel throughout the Policy organization were involved in activities related to intelligence concerning Iraq.

I am enclosing a copy of a report I issued on October 21, 2004 concerning the activities of the Office of the Under Secretary of Defense for Policy in producing alternative intelligence analysis concerning a relationship between Iraq and al Qaeda. I hope that the report may be useful in your review.

Specifically, I would ask that you consider the following questions in your investigation to determine whether OSD Policy personnel engaged in the activities in question:

1. Did the Office of Under Secretary Feith produce its own intelligence analysis of the relationship between Iraq and al Qaeda and present its analysis to other offices in the executive branch (including the Secretary of Defense and the staffs of the National Security Council and the Office of the Vice President)?

2. Did the intelligence analysis produced by Under Secretary Feith's office differ from the Intelligence Community analysis on the relationship between Iraq and al Qaeda?

3. Was the alternative OSD Policy intelligence analysis supported by the underlying intelligence?

4. Did Under Secretary Feith send CIA ORCON material to the Senate Select Committee on

Intelligence in October of 2003 without CIA approval to release it, even though such approval is required by Executive Order?

5. Did Under Secretary Feith mislead Congress when he sent to several congressional committees in January 2004 revised ORCON materials that were represented as containing the CIA's requested changes to the October 2003 documents, but which did not fully and accurately reflect the CIA's requested changes? For instance, did the revised material sent by Under Secretary Feith to congressional committees provide a misleading impression of the reliability and credibility of a key intelligence source, as compared to the CIA's required changes to the document? In other words, did the supposedly "corrected" DOD documents suggest that the source was more reliable and credible (having "very close access") than the CIA believed to be the case (a "third hand" source to a foreign government intelligence service that "does not meet directly with the ultimate source of the information, but obtains the information from him through two unidentified intermediaries, one of whom merely delivers the information to the Service")?

6. Did the Office of the Under Secretary of Defense for Policy (OUSDP) prepare and present briefing charts concerning the relationship between Iraq and al Qaeda that went beyond available intelligence by asserting that an alleged meeting between lead 9/11 hijacker Mohammed Atta and Iraqi intelligence officer al-Ani in Prague in April 2001 was a "known" contact? *(emphasis added)*

7. Did the staff of the OUSDP present a briefing on the Iraq-al Qaeda relationship to the White House (Deputy National Security Adviser Stephen Hadley and Vice President Cheney's Chief of Staff I. Lewis Libby) in September 2002, unbeknownst to the Director of Central Intelligence, containing information that was different from the briefing presented to the DCI, not vetted by the Intelligence Community, and that was not supported by the available intelligence (for example, concerning the alleged Atta meeting), without providing the IC notice of the briefing or an opportunity to comment?

8. Did the staff of the OUSDP undercut the Intelligence Community (IC) in its briefing to the White House staff with a slide that said there were "fundamental problems" with the way the IC was assessing information concerning the relationship between Iraq and al Qaeda, and inaccurately suggesting that the IC was requiring "juridical evidence to support a finding," while not providing the IC notice of the briefing or an opportunity to comment?

9. Did the OSD Policy briefing to the White House draw conclusions (or "findings") that were not supported by the available intelligence, such as the "intelligence indicates cooperation in all categories; mature, symbiotic relationship" [slide7], or that there were "multiple areas of cooperation," and "shared interest and pursuit of WMD," and "some indications of possible Iraqi coordination with al Qaida specifically related to 9/11" [slide

19]? *(emphasis added)*

10. Did OUSDP staff prepare, and did Under Secretary Feith send to the Secretary of Defense and the Deputy Secretary of Defense, a written critique of a report entitled *Iraq and al Qaida: Interpreting a Murky Relationship* prepared by the DCI's Counter Terrorism Center (CTC), stating that the "CIA's interpretation ought to be ignored," without providing the CIA notice or an opportunity to respond?

After reviewing these matters, I would ask that you determine whether you believe these activities were appropriate and proper. If you determine that any of the activities were either inappropriate or improper, I request that you provide your recommendations for remedial action.

Sincerely,

Carl Levin

Carl Levin
Ranking Member

Enclosure

cc: Senator Pat Roberts
Senator Jay Rockefeller
Senator John Warner

-3-

Appendix E. Deputy Secretary of Defense Request for Iraqi Connections to Al Qaida (U)

copy to NESA

22 Jan 02

MEMO FOR Doug Feith

FROM DepSecDef PW

SUBJECT: Iraqi Connections to Al Qaida

We don't seem to be making much progress pulling together intelligence on links between Iraq and Al Qaida.

We owe SecDef some analysis of this subject.

Please give me a recommendation on how best to proceed.

Appreciate the short turn-around. Thanks.

Suspense: 25 Jan 02

CC: DSD TSA
DSD MA

04602

LD-1180 /02

Appendix F. Assistant Secretary of Defense, Office of International Security Affairs Response to Deputy Secretary of Defense Inquiry (U)

JAN 25 2002

~~SECRET~~

ASSISTANT SECRETARY OF DEFENSE

2400 DEFENSE PENTAGON
WASHINGTON, DC 20301-2400

INTERNATIONAL SECURITY AFFAIRS

INFO MEMO

I-02/001165-NESA
January 24, 2002 5:03 PM

FOR: Deputy SECRETARY OF DEFENSE

FROM: Assistant Secretary of Defense, International Security Affairs [redacted] 25 JAN 2002

SUBJECT: ~~(S)~~ [redacted]

~~(S)~~ [redacted]

~~(S)~~ So far we have discovered few direct links. However, we have uncovered evidence suggesting more robust indirect links. This is not surprising given the denial and [redacted] concealment strategies employed by Saddam's intelligence service.

~~(S)~~ [redacted]

~~(S)~~ **Indirect Links:**

- Abu Nidhal Organization (ANO) headquartered in Baghdad.
- ANO has following known links to al-Qaida:
  - Bin Laden met in January 1998 with the General Secretary of ANO. Agreed to provide financial assistance in return for unspecified assistance to al-Qaida.

Classified by Multiple Sources
Reason: 1.5(c)(d)
Declassify on: X6

~~SECRET~~

b(1)
b(6)

~~SECRET~~

- Bin-Laden sent his deputy to Lebanon in 1998 to meet with ANO operatives to explore areas of cooperation.
- The al-Qaida cell in Lebanon has received weapons and ammunition from the ANO.
- Vehicle Muhammad Atta used to visit Prague registered to an ANO agent.
- ANO has links with Hizbollah, which in turn has significant links to al-Qaida.

- ANO responds expeditiously and fully to Iraqi government directives (October 2001).
- Iraqi government expressed concern (October 2001) to ANO leaders that Baghdad's alliance with ANO would lead the US to hold Iraq accountable for al-Qaida terrorism.
- Suggests ANO functions to serve Iraqi objectives and that Iraq is aware of ANO ties to al-Qaida.

~~(S)~~ [redacted]

COORDINATION: Tab A

Attachments:
As stated

DASD [signature]

~~SECRET~~

b(1)

Appendix G. Senator Levin's Questions and Evaluation Responses (U)

(U) In a September 22, 2005, letter to the DoD Office of the Inspector General, Senator Carl Levin, Ranking Member of the Senate Committee on Armed Services, requested that we consider the following questions in the evaluation.

1. (U) "Did the Office of Under Secretary Feith produce its own intelligence analysis of the relationship between Iraq and al Qaeda and present its analysis to other offices in the Executive branch (including the Secretary of Defense and the staffs of the National Security Council and the Office of the Vice President)?"

(U) Yes. In our report we discuss that members of the OUSD(P) produced a briefing on terrorism that was based on intelligence reports. The briefing, which analyzed the relationship between Iraq and Al Qaida, was delivered to the Deputy Secretary of Defense and the Secretary of Defense in August 2002. On September 16, 2002, members of the OUSD(P) briefed Mr. Stephen Hadley (then Deputy National Security Advisor), as requested, and Mr. I. Lewis Libby (then Chief of Staff, Office of the Vice President).

2. (U) "Did the intelligence analysis produced by Under Secretary Feith's office differ from the Intelligence Community analysis on the relationship between Iraq and al Qaeda?"

(U) Yes. The OUSD(P) analysis included some conclusions that differed from that of the Intelligence Community. Although analysts in the Intelligence Community and OUSD(P) agreed that some contacts and possible training may have occurred between Iraq and al-Qaida, the CIA and the DIA disavowed any "mature, symbiotic" cooperation between Iraq and al-Qaida.

~~(C)~~ [redacted]

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[redacted]

(U) The CIA position on any connection between Iraq and al-Qaida. was outlined in reports such as "Iraqi Support to Terrorism" and "Iraq and al-Qaida: Interpreting a Murky Relationship." The draft August 2002 Report, the "Iraqi Support to Terrorism" declared that the CIA "could not document any joint operational activity between Iraq and al-Qaida." In a commentary on the CIA report, OUSD(P) staffers raised many objections, stating that they believed the CIA report downplayed the relationship and did not refer to the key issue of the meeting between Mohammed Atta and al-Ani.

3. (U) "Was the alternative OSD Policy intelligence analysis supported by the underlying intelligence?"

~~(S)~~ Partially. The alternative intelligence analysis that OUSD(P) produced was not fully supported by underlying intelligence. For example, in the memo, "Iraq and al-Qaida: Making the Case," a DIA analyst detailed to OUSD(P) stated "the following information clearly makes the case for an Intelligence Finding—that Iraq has been complicit in supporting al-Qaida terrorist activities." However, an August 2002 JITF-CT memorandum countered the OUSD(P) position addressing the 26 points used to support the Intelligence Finding, the JITF-CT agreed or partially agreed with 11 of the 26. The JITF-CT memorandum went on to state that the entire assessment suffered from a number of methodological flaws that severely undermined its arguments.

(U) Analysts within the Intelligence Community agreed possible ties could exist between Iraq and al-Qaida for training, but without any conclusive reporting, the Intelligence Community did not view the contacts between the two as critical or as important as did the OUSD(P). In contrast, the OUSD(P) believed that the CIA made numerous assertions about a relationship between the two, only to discount them. An intelligence analyst at DIA stated that the papers the OUSD(P) produced lacked the background that normally distinguishes a policy paper from an intelligence paper. He further explained that the CIA and DIA were more analytically skeptical in ascribing links to terrorism, because although there were links between the two [Iraq and al-Qaida] there was no clear relationship. The DIA analyst went on to say that the OUSD(P) stated there were clear links and a clear relationship between Iraq and al-Qaida. Specifically, only the OUSD(P) believed there was a "mature, symbiotic" relationship involving

b(1)

"cooperation in all categories" between Iraq and al-Qaida. This belief was based, inpart, on the alleged April 8-9, 2001, meeting in Prague between Mohammed Atta and al-Ani.[7]

4. (U) "Did Under Secretary Feith send CIA ORCON material to the Senate Select Committee on Intelligence in October 2003 without CIA approval to release it, even though such approval is required by Executive Order?"

(U) Yes. However, both the CIA and the OUSD(P) believed that the CIA had approved the ORCON material before sending it to the SSCI in October 2003. The OUSD(P) requested permission from the CIA to release the ORCON material, but lacking a timely response, the OUSD(P) believed that the CIA had granted permission to release the material. Neither the USD(P) nor the then Deputy Director of Central Intelligence were aware that the answers may have been sent to the SSCI before the CIA approval was completed. On November 15, 2003, the Deputy Director of Central Intelligence and the USD(P) approved a DoD statement which confirmed that the OUSD(P) provided the ORCON material to the SSCI with the permission of the Intelligence Community. However, we found no evidence that the CIA approved the release of the ORCON material before the November 15, 2003, statement was released. Although the OUSD(P) did seek the CIA approval, the approval and notification to the OUSD(P) appears to have occurred after the fact.

5. (U) "Did Under Secretary Feith mislead Congress when he sent to several congressional committees in January 2004 revised ORCON materials that were represented as containing CIA's requested changes to the October 2003 documents, but which not fully and accurately reflect CIA's requested changes?"

(U) No. The Under Secretary Feith did not mislead Congress when he sent revised ORCON material to congressional committees in January 2004. The OUSD(P) believed that the CIA had approved the material before sending it to Congress. To satisfy the CIA request for changes and the congressional request for the annex, the USD(P) sent the annex to the committees. The annex was accompanied by a memorandum, drafted by the OUSD(P) staff, outlining the changes the CIA requested. Under Secretary Feith informed the committees that the memorandum reflected the CIA's requested changes. On November 1, 2004,

[7] ~~(S//NF)~~ [redacted]

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the Director of Congressional Affairs, CIA responded to the USD(P) by stating "[a]fter a careful comparison between that submission [to the Senate Committee on Armed Services] and what we had requested as our condition for clearance of CIA material, I believe that you made all of the changes we requested."

6. (U) "Did the Office of the Under Secretary of Defense for Policy OUSD(P) prepare and present briefing charts concerning the relationship between Iraq and al Qaeda that went beyond available intelligence by asserting that an alleged meeting between lead 9/11 hijacker Mohammed Atta and Iraqi intelligence officer al-Ani in Prague in April 2001 was a 'known' contact?"

(U) Yes. The OUSD(P) produced a briefing, "Assessing the Relationship between Iraq and al-Qaida," in which one slide discussed the alleged meeting in Prague between Mohammed Atta and Iraqi Intelligence officer al-Ani as a "known contact." The briefing provided to the Deputy National Security Advisor, as requested, and the Chief of Staff of the Office of the Vice President, was similar to those that the OUSD(P) gave the Secretary of Defense and the DCI, except that the OUSD(P) included a slide that had not appeared in previous versions, "Facilitation: Atta Meeting in Prague," that like the "known contacts" slide, presented the alleged meeting in Prague as fact. The slide did not include Intelligence Community caveats.

(U) In mid-September 2001, the Czech Internal Security Service reported that an alleged meeting between Mohammed Atta and Iraqi intelligence officer al-Ani took place in April 2001; the Czech report was from a single source. Although previous CIA reporting placed Atta in Prague between 1994 and 2000, none confirmed the alleged April 2001 meeting.

(U) By the summer of 2002, the DIA and the CIA both published reports which questioned the Czech report. At the analyst level in OUSD(P), personnel including the drafter of the briefing and one senior advisor to Deputy Secretary of Defense, believed the meeting took place stating that the absence of evidence is not evidence of absence. However, OUSD(P) members could not agree whether the report was valid. Nonetheless, the OUSD(P) briefing to the Deputy National Security Advisor and Chief of Staff of the Office of the Vice President in September 2002 presented the alleged meeting between Mohammed Atta and al-Ani as a 'known fact.'

7. (U) "Did the staff of the OUSD(P) present a briefing on the Iraq-al Qaeda relationship to the White House (Deputy National Security Adviser Stephen Hadley and Vice President Cheney's Chief of Staff I. Lewis Libby) in September 2002 unbeknownst to the Director of Central Intelligence, containing information that was different from the briefing presented to the DCI, not vetted by the Intelligence Community, and that was not supported

by the available intelligence (for example, concerning the alleged Atta meeting), without providing the IC notice of the briefing or an opportunity to comment?"

(U) Yes. The OUSD(P) presented three different versions of the same briefing, of which some of the information was supported by available intelligence, to the Secretary of Defense, the DCI, and to the Deputy National Security Advisor and Chief of Staff of the Office of the Vice President. Three specific slides are in question. The differences seem small, but the addition or omission of briefing slides and words can alter the message presented to each audience.

(U) The first slide, "Fundamental Problems with How Intelligence Community is Assessing Information," was included in the briefings to the Secretary of Defense and to the Deputy National Security Advisor and Chief of Staff of the Office of the Vice President. The slide accuses the Intelligence Community of applying a standard requiring juridical evidence for reports, underestimates the importance for both Iraq and al-Qaida to keep their relationship hidden, and assumes the two would not cooperate because of religious differences. This slide "was omitted [from the DCI brief] because it had a critical tone."

(U) The second slide, "Findings," discusses alleged contacts, cooperation, and shared interests between Iraq and al-Qaida; it also contained a statement about coordination between Iraq and al-Qaida on 9/11. All three versions of the briefing contained this slide, but the wording for the bullet discussing cooperation between Iraq and al-Qaida on 9/11 was different on each. The briefing for the Secretary of Defense stated that there was "one indication of Iraqi Coordination with al-Qaida." The briefing for the Deputy National Security Advisor and Chief of Staff of the Office of the Vice President stated that there were "some indications of possible Iraqi coordination with al-Qaida." Interestingly, the brief to the DCI was the most conservative, stating that there was "one possible indication of Iraqi coordination with al-Qaida."

(U) The third slide, "Facilitation: Atta Meeting in Prague," addressed the alleged Mohammad Atta and al-Ani April 2001 meeting in Prague. Neither briefing to the Secretary of Defense or the DCI contained this slide; only the one to the Deputy National Security Advisor and Chief of Staff of the Office of the Vice President contained the slide.

(U) A CIA Senior Intelligence Analyst kept the slides from the August 2002 OUSD(P) briefing to the DCI and compared them with similar slides presented at a SSCI hearing in February 2004. From the comparison, he realized the slides on the relationship between Iraq and al-Qaida were different from those presented to

the DCI in August 2002. He also commented that, at the SSCI hearing, OUSD(P) presented 10 slides that were different from the original 10 presented during the August 2002 meeting.

~~(S//NF)~~ On August 9, 2002, in a Memorandum, "JITF-CT Commentary: Iraq and al-Qaida, Making the Case," a senior DIA analyst countered, point-by-point, each "known contact" and most of the intelligence judgments reached by OUSD(P) in the OUSD(P) memo, "Iraq and al-Qaida: Making the Case." Two of the OUSD(P) slides that were part of larger briefings to the Secretary of Defense, the DCI, the Deputy National Security Advisor and Chief of Staff of the Office of the Vice President, "Known Contacts," were produced from the OUSD(P) Memorandum. The JITF-CT Intelligence Analyst specifically cited that, "the alleged April 8 or 9, 2001, meeting between al-Ani and Muhammad Atta is impossible to establish with available information." The analyst goes on to say, "the assessment states that there has been no other available intelligence report that contradicts the Czech report – only Western press speculation that the Czech information is wrong. This is incorrect." Czech officials retracted some of their evidence after determining that Muhammad Atta did not enter the country on March 31, 2001; they had confused him with a Pakistani national with a similar name.

(U) Regarding Intelligence Community notice, Mr. Tenet, the DCI, was not notified nor was he required to be informed and attend the OUSD(P) briefing to the Deputy National Security Advisor and Chief of Staff of the Office of the Vice President on September 16, 2002. Mr. Tenet first heard about that OUSD(P) briefing during a SSCI hearing in February 2004.

8. (U) "Did the staff of the OUSD(P) undercut the Intelligence Community (IC) in its briefing to the White House staff with a slide that said there were 'fundamental problems' with the way the IC was assessing information concerning the relationship between Iraq and al-Qaeda, and inaccurately suggesting that the IC was requiring 'juridical evidence to support a finding,' while not providing the IC notice of the briefing or an opportunity to comment."

(U) Yes. We believe that the slide undercuts the Intelligence Community by indicating to the recipient of the briefing that there are "fundamental problems" with the way that the Intelligence Community was assessing information. Evidence of this can be observed by the Vice President's words during an interview in which he describes a memorandum (obtained and published by the Weekly Standard) from the Under Secretary of Defense for Policy to members of the SSCI as "your best source of information." This is in contrast to the SSCI's

evaluation of CIA prewar assessments, as described in their Phase 1 report, which detailed a "methodical approach for assessing possible Iraq/al-Qaida relationship was reasonable and objective."

(U) The briefing slides that the OUSD(P) presented to the Deputy National Security Advisor and Chief of Staff of the Office of the Vice President on September 16, 2002, were different from those previously presented to the DCI on August 16, 2002. The additional slides included one on "Fundamental Problems with how the Intelligence Community is Assessing Information." The slide also stated "Application of a standard that it would not normally obtain – IC [Intelligence Community] does not normally require juridical evidence to support a finding." The OUSD(P) did not coordinate this particular slide with the CIA, DIA, or any of their principal staff before making the presentation to the Deputy National Security Advisor and Chief of Staff of the Office of the Vice President. The OUSD(P) also omitted the slide that depicted 'fundamental problems' [with the IC's analysis] from the version it presented to the DCI, but the slide was included in the version presented to the Deputy National Security Advisor and Chief of Staff of the Office of the Vice President because, according to OUSD(P), the slide, "had a critical tone that we [OUSD(P)] felt would distract from discussion of the substance."

9. (U) "Did the OSD Policy briefing to the White House draw conclusions (or 'findings') that were not supported by the available intelligence, such as the 'intelligence indicates cooperation in all categories; mature, symbiotic relationship' [slide 7], or that there were 'multiple areas of cooperation,' and shared interest and pursuit of WMD,' and 'some indications of possible Iraqi coordination with al-Qaida specifically related to 9/11' [slide19]?"

~~(S/NF)~~ Yes. The briefing to the Deputy National Security Advisor and Chief of Staff of the Office of the Vice President did draw conclusions that were not fully supported by the available intelligence. The briefing contained two slides, "What Would Each Side Want From a Relationship?," and "Findings." These two slides claimed "cooperation in all categories," and listed the relationship between Iraq and al-Qaida as being "mature and symbiotic" with "shared interest and pursuit of WMD [Weapons of Mass Destruction]" and "some indications of possible Iraqi coordination with al-Qaida specifically related to 9/11.' These claims were not supported by the available intelligence.

~~(S/NF)~~ In contrast, the CIA characterized the information about the relationship as contradictory. In a June 2002 assessment of al-Qaida's ties to Iraq the CIA stated that the pattern of contacts and cooperation between Iraq and al-Qaida over the years found few substantiated contacts between al-Qaida operatives and Iraqi regime officials. In the report, "Iraqi Support for Terrorism," the CIA also stated, "As in other areas of the Iraq al-Qaida relationship, unresolved questions and knowledge gaps limit our ability to confidently gauge the existence or extent

of cooperation through training and especially through the sharing of CBRN [Chemical, Biological, Radiological, and Nuclear] capabilities."

~~(S/NF)~~ Both the CIA and DIA acknowledged that they had evidence that Iraq and al-Qaida had sporadic contacts during the 1990s, however the CIA assessed the contacts as intermittent and lacking the information that showed the two had a long-term relationship similar to those that Iraq had fostered with other terrorist organizations. The DIA assessment of contacts said that, "Iraq and al-Qaida probably have initiated contact in the past and may communicate through a liaison arrangement, though available reporting is not firm enough to demonstrate an ongoing relationship." Sporadic contacts, however, hardly amount to a "mature," let alone "symbiotic" relationship.

~~(S/NF)~~ The CIA further discusses operational planning and cooperation with Chemical, Biological, Radiological, and Nuclear training in the report, "Iraqi Support to Terrorism." The CIA described reporting on Chemical, Biological, Radiological, and Nuclear training as "episodic, sketchy or not corroborated in other channels," which was far from the "shared interest and pursuit of WMD" that the OUSD(P) assessed. As for operational planning, the CIA stated, "we have uncovered no solid indication of Iraqi complicity in or foreknowledge of the World Trade Center and Pentagon attacks."

(U) Analysts within the Intelligence Community agreed that possible ties could exist between Iraq and al-Qaida for training, but without conclusive reporting, the Intelligence Community believed that most contacts between the two were insignificant. In contrast, the OUSD(P) believed that the CIA affirmed the relationship between the two many times, only to discount them. A Senior Intelligence Analyst at DIA stated that the OUSD(P) papers lacked the background that normally separates a policy paper from an intelligence paper. He further explained that the CIA and DIA were "more analytically skeptical in ascribing links to terrorism, and that there were links between the two [Iraq and al-Qaida] but no clear relationship." The DIA Senior Intelligence Analyst also said that OUSD(P) "stated there were clear links and a clear relationship between Iraq and al-Qaida." Only the OUSD(P) assessed that Iraq and al-Qaida had a "mature, symbiotic relationship, with cooperation in all areas."

10. (U) "Did OUSD(P) staff prepare, and did Under Secretary Feith send to the Secretary of Defense and the Deputy Secretary of Defense, a written critique of a report entitled Iraq and al Qaida: Interpreting a Murky Relationship prepared by the DCI's Counter Terrorism Center (CTC), stating that the 'CIA's interpretation ought to be ignored,' without providing the CIA notice or an opportunity to respond?"

(U) Yes, however, there is no requirement to provide an internal OSD document to the CIA for their review. A DIA detailee prepared a critique of the report,

"Iraq and al-Qaida: Interpreting a Murky Relationship" which was sent to the Secretary of Defense and Deputy Secretary of Defense.

(U) The Principal Deputy of International Security Affairs sent the DIA detailee a copy of the CIA report, "Iraq and al-Qaida: Interpreting a Murky Relationship," requesting an opinion of the document. The detailee's response, "Comments on CIA's "Iraq and al-Qaida: Interpreting a Murky Relationship," contained the sentence, "Therefore, the CIA report should be read for content only – and CIA's interpretation ought to be ignored." The DIA analyst who authored the comment cited a belief that the CIA had initially published, "strong, convincing information on Iraq and al-Qaida ties," but was very cautious in verifying the information. The comments were eventually sent to Under Secretary Feith, who forwarded them to the Secretary of Defense and the Deputy Secretary of Defense.

Appendix H. Key Directives and Terms (U)

(U) DoD Directive 5105.21. DoD Directive 5105.21, "Defense Intelligence Agency," February 18, 1997, details the DIA mission to "satisfy, or ensure the satisfaction of, the military and military-related intelligence requirements of the Secretary and Deputy Secretary of Defense..." The Director, DIA is "the principal advisor on substantive intelligence matters to the Secretary and Deputy Secretary of Defense..." The Executive Order 12333 lists the DIA as a designated Intelligence Activity. DoD Directive 5105.21 defines Intelligence Application, as intelligence activity related to, but separate from, intelligence production, involving the use of all available intelligence information.

(U) DoD Directive 5111.1. DoD Directive 5111.1, "Under Secretary of Defense for Policy (USD(P))," December 8, 1999, designates the USD(P) as the principal staff assistant and advisor to the Deputy and Secretary of Defense for all matters on the formulation of national security and defense policy. The Directive also states that the USD(P) will perform such other functions, as the Secretary of Defense may prescribe.

(U) DoD Directive 5137.1. DoD Directive 5137.1, "Assistant Secretary of Defense for Command, Control, Communication and Intelligence," February 12, 1992 designates the Assistant Secretary, as the principal staff assistant and advisor to the Secretary and Deputy Secretary of Defense for Command, Control, Communication and Intelligence, information management, counter-intelligence, and security countermeasures matters, including warning, reconnaissance, and intelligence and intelligence-related activities conducted by the Department of Defense, to coordinate and exchange information with other OSD officials and the Heads of DoD Components exercising collateral or related functions. This Directive was cancelled on May 2, 2005.

(U) DoD Directive 5143.01. DoD Directive 5143.01, "Under Secretary of Defense for Intelligence (USD(I))," November 23, 2005, established the USD(I) as the Principal Staff Advisor to the Secretary and Deputy Secretary of Defense regarding intelligence, counterintelligence, security, sensitive activities, and other intelligence-related matters.

(U) DoD Directive 5240.1. DoD Directive 5240.1, "DoD Intelligence Activities," April 25, 1988, is the guidance used by DoD intelligence components to collect, retain, or disseminate information. DoD Directive 5240.1 defines Intelligence Activities as "the collection, production, and dissemination of foreign intelligence and counterintelligence by DoD intelligence components authorized under reference (b)." Reference (b) is Executive Order 12333, "United States Intelligence Activities," December 4, 1981.

(U) Defense Intelligence Policy. Defense Intelligence Analytical standards were detailed in DIA DI Policy 004 and 005 from November 2005 through November 2006.

(U) DI Policy No. 004, July 13, 2001. This policy outlines the Defense Intelligence Alternative Judgment Policy which details those rare instances where analysts build a strong case, but cannot achieve consensus support for their analysis, an alternative judgment is justified. The Policy further details the actions a Defense intelligence analyst may follow in order to publish an Alternative Judgment.

(U) DI Policy No. 005, June 5, 2001. This policy outlines Defense Intelligence's Alternative Analysis Policy. The need to promote sound alternative analysis does not absolve an analyst from the requirement to collaborate. Rather, it frees the analyst from the need to resort to compromise just to reach a conclusion. Analysts are encouraged to resolve analytic differences by presenting alternative analysis within their products, but where consensus cannot be reached.

(U) Title X, Section 113. "Subject to the direction of the President and to this title and section 2 of the National Security Act of 1947 (50 U.S.C. 401), the Secretary of Defense has authority, direction, and control over the Department of Defense." The Secretary owns the DoD Directives governing (among others) Intelligence and Policy, and as long as Executive Orders or other legal statutes are not violated, he has the latitude to interchange roles and responsibilities.

(U) Key Definitions.

(U) Intelligence Activities. The collection, production, and dissemination of foreign intelligence and counterintelligence by DoD intelligence components that are authorized under Executive Order 12333 (DoD Directive 5240.1).

(U) Intelligence Production. The validation, correlation, analysis, and interpretation of information on foreign intelligence and counterintelligence (DoD Directive 5105.21).

(U) Defense Intelligence. Refers to the integrated DoD intelligence that covers the broad aspects of national policy and national security and that intelligence ... is significant to Defense policy-making and planning and conducting military operations and activities (DoD Directive 5143.01).

(U) Originator Control: ORCON. Is a control mechanism to control sensitive information that could prove damaging if divulged. Often ORCON is used where the sensitivity is actually in the linkage of a given set of knowledge to a person, location, or entity.

Appendix I . Summary of Under Secretary of Defense for Policy Comments and Evaluation Responses(U)

(U) On January 16, 2007, the Under Secretary of Defense for Policy submitted more than 50 pages of comments in response to the draft report. (See Management Comments for the complete text of the Under Secretary of Defense for Policy comments.) The following is a summary of the main issues discussed in those comments and the OIG response to those comments.

(U) Issue No. 1 – OIG Opinion on appropriateness of USD(P) activities.

(U) USD(P) Comments. The USD(P) stated that, "We recognize that the OIG is competent to determine whether the activities were lawful and authorized. But in the present matter we do not believe the OIG ought to enter the realm of opinion about whether the activities were appropriate in the absence of any applicable standards, regulations or directives on that question."

(U) OIG Response. Inherent in the IG authority and responsibility is to develop opinions, conclusions, judgments, and recommendations based on audits, investigations, inspections, and evaluations. In addition, Congress tasked the OIG to render an opinion. Appendix C, "I request that you immediately initiate an investigation into the activities of the Office of Special Plans during the period prior to the initiation of Operation Iraqi Freedom to determine whether any of these activities were unlawful or improper. The Committee is specifically interested in knowing whether the personnel assigned to the Office of Special Plans, at any time, conducted unauthorized, unlawful or inappropriate intelligence activities." Appendix D expanded the scope to include any part of OUSD(P) requesting, "I would ask that you determine whether you believe these activities were appropriate and proper. If you determine that any of the activities were either inappropriate or improper, I request that you provide your recommendations for remedial action."

(U) Issue No. 2 – Work completed by OUSD(P) staffers is not necessarily "OUSD(P)" work.

(U) USD(P) Comments. (1) The USD(P) stated, "The work reviewed was not an "OUSD(P)" activity, assessment, view, position or initiative, despite the Draft Report's repeated assertions to the contrary. The Under Secretary of Defense for Policy [USD(P)] never approved, adopted or advocated the draft briefing or any of the work leading to it as an "OUSD(P)" view or assessment. Each version of the briefing was marked "draft" or "draft working papers" and was never presented as anything other than that.

(2) (U) The USD(P) stated, "The Report fails to make clear that the Office of Special Plans (OSP), the Policy Counter Terrorism Evaluation Group (PCTEG), and the Policy Support Office did not perform and had no responsibility for any of the work reviewed in this Project. This failure is especially egregious in light of press reports and political criticism that continue to assert the contrary. Neither the OSP, the PCTEG, nor the Policy Support Office had any responsibility for the activities reviewed, and none of these units as such performed any of those activities."

(3) (U) The USD(P) stated, "The first activity relevant here was an ad hoc group, [PCTEG] formed by the Under Secretary of Defense for Policy (USDP) shortly after the 9/11 attacks. The mission of that group was to review all available information about a number of international terrorist organizations with a basic focus on the question: What does it mean to be at war with a terrorist network? The Draft Report erroneously states that this group was formed "to conduct an independent analysis of the al-Qaida terrorist network" (page 2). In fact, the group's work was not limited to al-Qaida but addressed more generally various major terrorist groups and their relations with their state sponsors. This group commenced work in approximately October 2001 with two members: a consultant, and a detailee from the Defense Threat Reduction Agency. The group requested and received relevant intelligence information from the Intelligence Community and did preliminary work on the subject assigned. Both members, however, left for other duties towards the end of 2001 and the beginning of 2002. Neither of them ever worked in or took direction from the OSP or the Policy Support Office."

(U) OIG Response. (1) Products produced and disseminated by personnel within the OUSD(P) and disseminated, whether marked draft or otherwise, are OUSD(P) activities. In some cases, the USD(P) personally directed that the work be accomplished. In a USD(P) Fact Sheet on the PCTEG, dated February 3, 2004, in reference to work done by the sole remaining PCTEG member, "Together with other staffers, this individual prepared a briefing for me in August 2002 on links between Iraq and al Qaida. I asked them to give the same brief to the DCI." Work completed by OUSD(P) members assigned to USD(P), based on chain of command, are OUSD(P) activities. See Appendix F for a memorandum from ASD (ISA) regarding "Links between al-Qaida and Iraq," in which the USD(P) asked the Deputy Secretary of Defense in a handwritten note dated January 25, 2002, "DSD, Should we organize a briefing for you to review the underlying intell? Doug Feith" The USD(P) was aware of tasking and is inherently responsible for reviewing products (like the brief) produced in OUSD(P). Additionally, the USD(P) personally attended two versions of the briefing discussed at length in our report (Assessing the Relationship between Iraq and al-Qaida), to the Secretary of Defense and to the DCI.

(2) (U) We acknowledged that OSP has become generic terminology for the activities of the OUSD(P), including the PCTEG and Policy Support Office. The actual OSP had no responsibility for and did not perform any of the activities examined in this review. The collaborative team that worked on the briefing discussed in our report, "Assessing the Relationship between Iraq and al-Qaida," consisted of one member of the PCTEG, one member of the Policy Support Office, and a former member of OUSD(P) member who was working as the Special Assistant to the Deputy Secretary of Defense. Regardless of whether the collaborative activity was sanctioned by the PCTEG or Policy Support Office, or both, the briefing is generically described as work done collaboratively by OUSD(P) and the Special Assistant to the Deputy Secretary of Defense.

(3) ~~(S//NF)~~ According to an ASD(ISA) Action Memo dated November 26, 2001, for the Deputy Secretary of Defense detailing the creation of the PCTEG, the purpose of the PCTEG was to "Obtain approval of creation of a Team B, called the Policy Counter Terror Evaluation Group (PCTEG). Through independent analysis and evaluation, the PCTEG would determine what is known about Al-Qaida's worldwide terror network, its suppliers and relationship to states and other international terrorist organizations..." The Action Memo includes a handwritten note dated November 25, 2001, "Bob Andrews, Should this say something specifically about linking up w/Treasury Dept? By the way, what is happening w/DoD-Treasury link? DJF" [Doug J. Feith]. Additionally, in a Memorandum for Director, Defense Intelligence Agency of February 2, 2002, Subject: Request for Support, the USD(P) writes, "We are establishing an ad hoc Policy Counter Terrorism Evaluation Group (PCTEG) to take an independent look at Al-Qaida's worldwide organization and linkages." In addition, the USD(P) comments on the draft report states that, "the memo approving creation of the PCTEG described its task as follows: study al-Qaida's worldwide organization including its suppliers, its relations with States and other terrorist organizations (and their suppliers)." This is an admission by the USD(P) that the PCTEG was formed to study al-Qaida.

(U) Issue No. 3 – OUSD(P) work cannot be considered "Intelligence Activities."

(U) USD(P) Comments. (1) The USD(P) stated, "The entire argument in the Draft Report rests on the definition of "Intelligence Activities" and the meaning of "intelligence assessments." The Report's interpretation of the definition of "Intelligence Activities" found in the relevant DoD directive is wrong. By its definition, that term on its face applies only to intelligence agencies, not to policy offices.

(2) (U) The Draft Report labels the work product at issue as "inappropriate" (page 4) because they allegedly "did not clearly show the variance with the consensus of the Intelligence Community" and "were, in some cases, shown as

intelligence products." But the senior decision-makers briefed on this work. .. .did not need to be told that it varied in some respects from Intelligence Community analysis; that was inescapably obvious. There are no facts supporting the claim that some work products were, in some cases, shown as intelligence products."

(U) OIG Response. (1) In effect the USD(P) is stating that the OUSD(P) is not a defined Intelligence Activity and therefore cannot, by definition, perform Intelligence Activities or intelligence assessments. This is the basis of our finding; a non-Intelligence Activity, OUSD(P), was inappropriately performing Intelligence Activities of production and dissemination that should be performed by the Intelligence Community.

(2) ~~(S//NF)~~ The Intelligence Community coordinates its products within the Intelligence Community to provide senior decision makers with the consensus of the community on an issue or a "finding." The OUSD(P) did not effectively inform decision makers on the variance of its conclusions with those of the substantive experts within the Intelligence Community; information that we believe is of value to the decision maker. Specifically, OUSD(P) did not take the appropriate action to inform the decision makers of the consensus opinion of the Intelligence Community and those portions reflecting their alternative assessment. Intelligence Community professionals judged the products produced by the OUSD(P) to be intelligence products. The use of terminology such as making "the case for an Intelligence Finding—that Iraq has been complicit in supporting al-Qaida terrorist activities," "Intelligence indicates," "Findings," and "Known Contacts" reinforces that judgment.

(U) Issue No. 4 – OUSD(P) work did not necessarily influence senior decision makers.

(U) USD(P) Comments. The USD(P) stated, "There are likewise no facts suggesting that the "senior decision-makers" who were briefed on this work, specifically, the Secretary of Defense, the Deputy Secretary of Defense, the DCI, the Deputy National Security Advisor, and the Vice President's Chief of Staff, mistook this work to be "intelligence assessments."

~~(S//NF)~~ **OIG Response.** Decision makers gather facts and make decisions on cumulative information, whether presented or perceived as "intelligence assessments." The "Report of an Inquiry into the Alternative Analysis of the Issue of an Iraq-al Qaeda Relationship," October 21, 2004, provides insight into whether the OUSD(P) products influenced senior decision makers. As quoted on page 5-6 of the Minority Staff Report:

> (U) Although Administration officials cited classified intelligence in support of their statements about the Iraq-al Qaeda relationship, their statements did not accurately reflect the intelligence assessment provided in classified reports to the Executive Branch and Congress by

> the IC [Intelligence Community]. Administration officials were apparently using intelligence analyses that originated outside of the IC. Those intelligence analyses claiming a close relationship were produced by the Office of Under Secretary of Defense for Policy Douglas Feith, and presented to high level Administration officials. Vice President Cheney specifically stated that the Feith analysis was the "best source of information."

(U) Issue No. 5 – OUSD(P) work did not undercut the Intelligence Community; it was supported by the DCI himself and the Czech Intelligence Service

(U) USD(P) Comments. The USD(P) stated: (1) "OUSD(P) did not impede or undercut any responsibilities of the Intelligence Community, contrary to suggestions in the Draft Report. The IC was fully aware of the work under review and commented on it several times, as the Draft Report itself reveals. Further, the DCI was personally briefed on the work at the Secretary of Defense's direction."

(2) ~~(S//NF)~~ [redacted]

(3) ~~(S//NF)~~ The USD(P) stated, "Whether or not it was an overstatement to describe the reported Atta meeting as a "known contact," the fact is that at the time of this briefing the Czech intelligence service stood firmly by its report [redacted] In contrast, the CIA report cited at page 7 of the Draft Report describes the reporting on the alleged meeting as "..contradictory, and we have not verified Atta's travel through other channels." The DIA report, also cited at page 8, states that the Atta meeting is "impossible to prove or disprove with available information." But at no time relevant to this Project did the US Intelligence Community articulate and disseminate any conclusive coordinated judgment that the reported Atta meeting did not occur."

b(1)
b(3)

(4) ~~(S//NF)~~ [redacted]

b(1)

(U) OIG Response. (1) As stated in our report, portions of the Intelligence Community were aware of work such as the July 25, 2002, memo; but the DCI was not. We agree that the DCI was briefed at the direction of the Secretary of Defense; however, the exclusion of the "Fundamental Problems with how the Intelligence Community is Assessing Information" slide to the DCI and inclusion of the slide to the Secretary of Defense and the Deputy National Security Advisor and Chief of Staff of the Office of the Vice President clearly did not bolster support for the Intelligence Community.

(2) ~~(S//NF)~~ The statements were made after the September 16, 2002, briefing to the Deputy National Security Advisor and Chief of Staff of the Office of the Vice President. Further, the DCI's own statement in his unclassified letter to Senator Graham on October 7, 2002, included "our understanding of the relationship between Iraq and al-Qaida is evolving and is based on sources of varying reliability." Evidence of senior level contacts between Iraq and al-Qaida and training in the areas of poisons and gases and making conventional bombs does not constitute a "mature symbiotic relationship" in all areas."

(3) ~~(S//NF)~~ At the time the "Czech intelligence service stood firmly by its report," the U.S. Intelligence Community was casting significant doubt on the validity of the report. The cited CIA report describes the reporting on the alleged meeting as "..contradictory, and we have not verified Atta's travel through other channels." The cited DIA report states that the Atta meeting is "impossible to prove or disprove with available information." While the Intelligence Community could not corroborate that the meeting occurred, at the same time, the briefing produced by the collaborative efforts of the two OUSD(P) personnel and the Special Assistant to the Deputy Secretary of Defense noted the meeting on the slide as "Known Contacts" on all three versions of the brief. Additionally, the SSCI report noted that "Although the CIA has not ruled out the meeting, its analysis characterized the meeting as highly unlikely."

(4) ~~(S//NF)~~ The slide, "What Would Each Side Want From a Relationship?" clearly concludes; "Intelligence indicates cooperation in all categories; mature, symbiotic relationship." Further, we did not state in our draft report that there was cooperation in the conduct of specific terrorist operations.

(U) Issue No. 6 – OUSD(P) work did not include all phases of intelligence cycle.

(U) USD(P) Comments. The USD(P) stated, "As the guidance cited by the Draft Report (page 4-5, Appendix H) and other relevant authorities make clear, "Intelligence Activities" involve the entire process by which intelligence agencies turn information into a product that intelligence consumers can use. "Intelligence Activities" and related terms make clear, such activities consist of the entire process of actions and operations conducted by intelligence agencies to produce an

intelligence product for consumers. It is incorrect to select one or a few activities that are part of the "intelligence process" and characterize those selected activities as "Intelligence Activities" even when conducted by non-IC policy elements of government."

(U) OIG Response. The USD(P) comments misinterpret the definition. The "and" in the list that is the intelligence process does not mean all elements must exist to constitute intelligence activities. The National Security Agency, for example, collects and exploits, but does not conduct all-source-fusion-analysis and yet their work is characterized as "intelligence."

Appendix J. Report Distribution (U)

(U) Office of the Secretary of Defense

Secretary of Defense
Deputy Secretary of Defense
Under Secretary of Defense for Intelligence
Under Secretary of Defense for Policy
General Counsel

(U) Other Defense Organizations

Director, Defense Intelligence Agency
Inspector General, Defense Intelligence Agency
Director, Joint Intelligence Task Force - Combating Terrorism

(U) Office of the Director of National Intelligence

Director of National Intelligence
Inspector General, Office of the Director of National Intelligence

(U) Central Intelligence Agency

Director, Central Intelligence Agency
Inspector General, Central Intelligence Agency

(U) Congressional Committees and Subcommittees, Chairman and Ranking Minority Member

Senate Committee on Appropriations
Senate Subcommittee on Defense, Committee on Appropriations
Senate Committee on Armed Services
Senate Committee on Homeland Security and Governmental Affairs
Senate Select Committee on Intelligence
House Committee on Appropriations
House Subcommittee on Defense, Committee on Appropriations
House Committee on Armed Services

House Committee on Oversight and Government Reform
House Subcommittee on Government Management, Organization, and Procurement, Committee on Oversight and Government Reform
House Subcommittee on National Security and Foreign Affairs, Committee on Oversight and Government Reform
House Permanent Select Committee on Intelligence

Under Secretary of Defense for Policy (U)

~~SECRET//NOFORN~~ WITH ATTACHMENT
UNCLASSIFIED WITHOUT ATTACHMENT

THE UNDER SECRETARY OF DEFENSE
2000 DEFENSE PENTAGON
WASHINGTON, DC 20301-2000

POLICY

January 16, 2007

MEMORANDUM FOR DEPUTY INSPECTOR GENERAL FOR INTELLIGENCE

FROM: Eric S. Edelman, Under Secretary of Defense for Policy

SUBJECT: Review of Pre-Iraqi War Activities of OUSD(P)
(Project No. D2006DINT01-0077.000) (U)

(U) Your office provided us a Draft dated December 20, 2006 of a Proposed Report (the "Draft Report") on the above project and requested comments.

(U) Attached are our comments, which I have approved and signed. The comments detail significant factual inaccuracies and analytical errors in the Draft Report. We have serious concerns with unsubstantiated findings and recommendations in the Draft Report, as explained in our comments.

(U) We recognize that the OIG is competent to determine whether the activities were lawful and authorized. But in the present matter we do not believe the OIG ought to enter the realm of opinion about whether the activities were appropriate in the absence of any applicable standards, regulations or directives on that question.

(U) As explained in our comments, we do not concur in specified findings or in the recommendations of the Draft Report.

(U) As requested, we have conducted a security review of the Draft Report as well as a declassification review of the information presented. The results of that review and our recommendations regarding declassification are separately attached to this memo. In addition, in respect to both the Draft Report and our comments on it, I have declassified all previously classified information for which my office was the Original Classification Authority.

(U) Thank you for giving us the opportunity to comment on the Draft Report.

Attachments: Comments on Draft Report (Tab A)
Security and Declassification Review (Tab B)

~~SECRET//NOFORN~~ WITH ATTACHMENT
UNCLASSIFIED WITHOUT ATTACHMENT

Under Secretary of Defense for Policy (U)

TAB A

~~SECRET//NOFORN~~

COMMENTS BY

THE OFFICE OF THE UNDER SECRETARY OF DEFENSE

ON A

DRAFT OF A PROPOSED REPORT

BY THE DOD OFFICE OF INSPECTOR GENERAL

PROJECT NO. D2006DINT01-0077.000

REVIEW OF PRE-IRAQI WAR ACTIVITIES

OF THE OFFICE OF

THE UNDER SECRETARY OF DEFENSE FOR POLICY (U)

January 16, 2007

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OUSD(P) COMMENTS ON
DRAFT OF A PROPOSED REPORT
BY THE DOD OFFICE OF INSPECTOR GENERAL

REVIEW OF PRE-IRAQI WAR ACTIVITIES OF THE OFFICE OF THE UNDER SECRETARY OF DEFENSE FOR POLICY (U)
PROJECT NO. D2006DINT01-0077.000

January 16, 2007

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**OUSD(P) COMMENTS ON
DRAFT OF A PROPOSED REPORT
BY THE DOD OFFICE OF INSPECTOR GENERAL**

REVIEW OF PRE-IRAQI WAR ACTIVITIES OF THE OFFICE OF THE UNDER SECRETARY OF DEFENSE FOR POLICY (U)

PROJECT NO. D2006DINT01-0077.000

January 16, 2007

The Committee believes that IC analysts should expect difficult and repeated questions regarding threat information. ...The Committee found that this process – the policymakers probing questions – actually improved the [CIA's] products. ...While analysts cannot dismiss a threat because at first glance it seems unreasonable or it cannot be corroborated by other credible reporting, policymakers have the ultimate responsibility for making decisions based on this same fragmentary, inconclusive reporting.[1]

(U) The Office of the Under Secretary of Defense for Policy (OUSD(P)) offers the following comments on a December 20, 2006 Draft of a Proposed Report (the "Draft Report") by the Department of Defense Office of Inspector General ("OIG") in Project No. D2006DINT01-0077.000, "Review of Pre-Iraqi War Activities of the Office of the Under Secretary of Defense for Policy (U)" (the "Project").

(U) Throughout these comments we observe that the work on which this Project concentrates, and in particular the specific activities that the Draft Report characterizes as "inappropriate," were authorized and directed to be done by the Deputy Secretary or the Secretary of Defense. For the purpose of these comments, references to "work" or "activities" "authorized" and "directed" by the Secretary, the Deputy Secretary, "the most senior leaders" of DoD, or "senior DoD leaders" specifically mean the following:

(U) The Deputy Secretary of Defense ("Deputy" or "DSD") directed his Special Assistant in his front office and two staff members in OUSD(P) to take a fresh, critical look at Intelligence Community ("IC") reporting on contacts between Iraq and al-Qaida. In working on the Deputy's tasking, one of the OUSD(P) staffers prepared an internal memo containing two commentary paragraphs followed by a list summarizing IC reports on contacts between Iraq and al-Qaida. The staffers wrote up the critique requested by DSD in the form of a draft briefing that discussed IC reports on Iraq-al-Qaida contacts and how these reported contacts might be viewed absent an *a priori* assumption that secular Baathists and Islamic extremists would never cooperate. The Deputy Secretary

[1] (U) *Report of the Select Committee on Intelligence on the U.S. Intelligence Community's Prewar Intelligence Assessments on Iraq (U)* (9 July 2004), pp. 34, 35 (unanimous report, unclassified version) ("SSCI Report").

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directed that the draft briefing be given to the Secretary of Defense. After receiving it, the Secretary directed that it be shared with the DCI. The Deputy Secretary's office also directed that the draft briefing be given to the Deputy National Security Advisor when the latter requested it.

I. SUMMARY OF KEY ERRORS IN THE DRAFT REPORT (U)

- (U) The title of the Draft Report is inaccurate. The work on which the Draft Report focuses was not "OUSD(P)" activity. It was in fact a response to tasking by the Deputy Secretary of Defense, who in July 2002 directed his Special Assistant in his front office and two staff members in OUSD(P) to critique IC reporting on contacts between Iraq and al-Qaida. The result was a draft briefing on how those contacts might be viewed if one did not assume *a priori* that secular Baathists and Islamic extremists would never cooperate. The Deputy Secretary directed that the draft briefing be given the Secretary of Defense. After receiving it, the Secretary directed that it be shared with the DCI. When the Deputy National Security Advisor requested the draft briefing, the Deputy Secretary's office directed that it be given to him.

- (U) The work reviewed was not an "OUSD(P)" activity, assessment, view, position or initiative, despite the Draft Report's repeated assertions to the contrary. The Under Secretary of Defense for Policy (USDP) never approved, adopted or advocated the draft briefing or any of the work leading to it as an "OUSD(P)" view or assessment. Each version of the briefing was marked "draft" or "draft working papers" and was never presented as anything other than that.

Page 14

- (U) The Draft Report correctly finds that these activities were lawful and authorized. It correctly states (page 34) that "the Secretary [of Defense] owns the DoD Directives governing (among others) Intelligence and Policy, and as long as Executive Orders or other legal statutes are not violated, he has the latitude to interchange roles and responsibilities." But in contradiction of these same findings, the Draft Report incorrectly calls the activities "inappropriate," because they supposedly amounted to "dissemination" to senior decision-makers of "alternative intelligence assessments" "inconsistent" with the "consensus" of the IC.

- (U) If the OIG believes that it was inappropriate for the Deputy Secretary of Defense to have non-IC OSD staff members critique IC work on a significant subject of national security, inappropriate for the Secretary of Defense to share the OSD work with the DCI, and inappropriate for the Deputy Secretary to share the work with the Deputy National Security Advisor when requested by the latter, the OIG should say so directly instead of finding fault with subordinate OSD offices and staff members who did as the Secretary or Deputy Secretary instructed.

Final Report Reference

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- (U) The entire argument in the Draft Report rests on the definition of "Intelligence Activities" and the meaning of "intelligence assessments." The Report's interpretation of the definition of "Intelligence Activities" found in the relevant DoD directive is wrong. By its definition, that term on its face applies only to intelligence agencies, not to policy offices.

- (U) Because OUSD(P) routinely and properly acquires, assesses and distributes "information relating to the capabilities, intentions, and activities of foreign powers,"[2] stretching the definition of "Intelligence Activities" to include policy offices would lead to the absurd result of mischaracterizing most work done in OUSD(P) as "Intelligence Activities."

- (U) The Report does not define the term "intelligence assessments" but erroneously asserts that a critique by non-IC staffers of IC assessments was itself an "inappropriate" "intelligence assessment." There are no facts in the Draft Report, or otherwise, supporting the assertion that this work was presented as "intelligence assessments."

- (U) There are likewise no facts suggesting that the "senior decision-makers" who were briefed on this work, specifically, the Secretary of Defense, the Deputy Secretary of Defense, the DCI, the Deputy National Security Advisor, and the Vice President's Chief of Staff, mistook this work to be "intelligence assessments."

- (U) The Report fails to make clear that the Office of Special Plans (OSP), the Policy Counter Terrorism Evaluation Group (PCTEG), and the Policy Support Office did not perform and had no responsibility for any of the work reviewed in this Project. This failure is especially egregious in light of press reports and political criticism that continue to assert the contrary. — Page 1 Revised

- (U) The Draft Report labels the work products at issue as "inappropriate" (page 4) because they allegedly "did not clearly show the variance with the consensus of the Intelligence Community" and "were, in some cases, shown as intelligence products." But the senior decision-makers briefed on this work (one of whom was the DCI himself) did not need to be told that it varied in some respects from IC analysis; that was inescapably obvious. There are no facts to suggest that any of them drew any conclusions or made any decisions whatsoever solely on the basis of the draft briefing, without taking IC views into account. There are no facts supporting the claim that some work products "were, in some cases, shown as intelligence products." — Page 5

[2] (U) Part of the definition of "foreign intelligence," which in turn is part of the definition of "Intelligence Activities." See DoD Directive No. 5240.1, DoD Intelligence Activities," 25 April 1988, Sections 3.1 and 3.2.

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Page 14 Revised

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- (U) OUSD(P) did not impede or undercut any responsibilities of the Intelligence Community, contrary to suggestions in the Draft Report. The IC was fully aware of the work under review and commented on it several times, as the Draft Report itself reveals. Further, the DCI was personally briefed on the work at the Secretary of Defense's direction.

- (U) OUSD(P) did not bypass any applicable DIA procedures, contrary to assertions in the Draft Report. The DIA's DI Policy Nos. 004 and 005, cited by the Draft Report, are internal DIA guidelines that only apply to DIA analysts, working as such, who wish to produce alternative analyses or alternative judgments within DIA's chain of command. These guidelines are irrelevant to customer offices of the IC – the consumers of intelligence -- that wish to suggest an alternative way of viewing information and analyses already provided by the IC. Nor do these guidelines provide any mechanism for DIA customers to request an alternative judgment by the IC, which in any case is manifestly not what the Deputy Secretary desired when he directed the work under review to be done.

- (U) While some of the work reviewed in this Project did characterize the Iraq-al-Qaida relationship as "cooperative," that characterization did not contradict IC judgments on the subject at the time. To the contrary, the reference in the draft briefing to a "cooperative" Iraq-al-Qaida relationship was consistent with the DCI's own statements to Congress in 2002 and 2003. He said then that "we have solid reporting of senior level contacts between Iraq and al-Qaida going back a decade," "credible information indicates that Iraq and al-Qaida have discussed safe haven and reciprocal non-aggression," "we have solid evidence of the presence in Iraq of al-Qaida members," "the reporting also stated that Iraq has provided training to al-Qaida members in the areas of poisons and gases and making conventional bombs," etc. The Draft Report ignores these DCI statements.

- (U) The Draft Report erroneously faults OUSD(P) for failing to provide "the most accurate analysis of intelligence" to senior decision-makers.[3] That responsibility rests with the IC, not OUSD(P). More importantly, senior decision-makers already had the IC's reports and assessments on Iraq and al-Qaida and thus already had "the most accurate analysis of intelligence" -- if one accepts, as the Draft Report seems to do, that the IC's assessments are the "most accurate."[4]

[3] (U) This criticism is symptomatic of the peculiar and sometimes contradictory logic of the Draft Report, for the Draft Report also holds that OUSD(P) should not provide any intelligence analyses at all.

[4] (U) The Draft Report purports to make judgments about the nature of the Iraq-al-Qaida relationship, but these judgments appear to be based on certain CIA and DIA analytical papers -- not on any contemporaneous NIE or other authoritative consensus by the IC as a whole – and without reference to the DCI's own statements on the subject. There is no evidence in the Draft Report that the OIG

Final Report Reference

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- (U) The Draft Report recommends (page 14) that, if OUSD(P) disagrees with an IC consensus, OUSD(P) should "clearly articulate in policy products the Intelligence Community consensus and the basis for disagreement or variance from the Intelligence Community consensus." Such a requirement would inappropriately constrain policy work by requiring policy offices to vet every policy recommendation or analysis with the IC in order to determine whether or not it disagreed or varied with an IC "consensus." It would also burden policy offices with a requirement to articulate the IC "consensus" when the IC itself should do so. Deleted

- (U) Bipartisan reports and studies by various commissions and congressional committees since the 9/11 attacks have stressed the need for vigorous debate, hard questions and alternative thinking of the sort that motivated the work reviewed in this Project. The conclusions and recommendation in the Draft Report reflect a disturbing departure from the lessons of all these reports and studies. By faulting a critical assessment in OSD of IC work on contacts between Iraq and al-Qaida, the Draft Report would inhibit the vigorous debate and hard questioning that most observers recognize as essential. The Draft Report's conclusions, if sustained, would have a dampening effect on future initiatives challenging intelligence assessments. The facts do not justify such conclusions.

II. THE POLITICAL BACKGROUND OF THIS MATTER (U)

(U) The activities reviewed in this Project, unfortunately, have been the object of bitter political debate and inaccurate press reporting for over three years. Given the partisan nature of the matter, it was particularly important that the OIG's independent review adhere to the strictest standards of factual accuracy, rigorous analysis, and clarity of expression. Unfortunately, the Draft Report does not meet those standards.

(U) Apart from numerous factual inaccuracies, omissions and mischaracterizations identified throughout these comments, the Draft Report suffers from a basic analytical flaw in attempting to paint the work under review as "inappropriate" even though no laws were broken, no DoD directives were violated, and no applicable policies were disregarded. The Draft Report concedes that the activities reviewed were lawful. It concedes that the activities were authorized – indeed requested – by the Deputy Secretary and Secretary of Defense. In perhaps its most trenchant observation, the Draft Report correctly states (page 34) that *"the Secretary owns the DoD Directives governing (among others) Intelligence and Policy, and as long as Executive Orders or other legal statutes are not violated, he has the latitude to interchange roles and responsibilities"* (emphasis added). Page 37

undertook any rigorous, independent review of the underlying intelligence on the issue of contacts between Iraq and al-Qaida.

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(U) That observation goes to the heart of the present matter. It shows that the activities in question were clearly appropriate. No statutes or executive orders were violated. The Secretary, and by extension the Deputy, unequivocally had the latitude to obtain an alternative, critical assessment of IC work on Iraq and al-Qaida from non-IC OSD staff members rather than from the DIA or the Assistant Secretary of Defense for C3I, without vetting such critique through any Intelligence Community process. The Secretary had the latitude to direct the authors of such critique to share it with the DCI. The Deputy Secretary had the latitude to direct the authors of such critique to share it with the Vice President's Chief of Staff and the Deputy National Security Advisor when the latter so requested. This should have put an end to any question of appropriateness.

(U) The OIG is empowered and competent to determine whether the activities were lawful and authorized. But we question whether it is "appropriate" for the OIG to venture into the realm of opinion about whether the activities were appropriate, in the absence of any applicable standards, regulations, directives, etc. This is especially true where, as here, the OIG has found the activities in question were lawful and authorized, and has conceded that the Secretary and Deputy have the "latitude to interchange roles and responsibilities" in overseeing DoD.

(U) We respectfully observe that the OIG's opinion on the subjective question of "appropriateness" in these circumstances is not entitled to any particular deference. The OIG does not have special expertise on this issue, which is fraught with policy and political dimensions. Given the politically charged atmosphere infecting this entire matter, it is especially objectionable for the OIG to obscure and minimize the fact that the Secretary and Deputy Secretary directed the activities in question be done, to mischaracterize the work as "OUSD(P)" activities, and to find something "inappropriate" in the fact that subordinate offices and staffers did as the Secretary and Deputy directed.

(U) Moreover, the Draft Report employs a demonstrably incorrect reading of "Intelligence Activities" to portray the work reviewed as "alternative intelligence assessments," "Intelligence Production" and the like, when in fact it was not. This mischaracterization is particularly egregious in light of the persistently false press reports and political accusations claiming that the Deputy Secretary, or OUSD(P), or others in the Defense Department distorted intelligence in order to argue that Iraq had a direct role in the 9/11 attacks, or that Iraq and al-Qaida had a stronger relationship than shown by facts known at the time, in order to propel the United States to war on false pretenses.

(U) Before the OIG ever took up this matter, it had been the subject of an exhaustive investigation that the Senate Select Committee on Intelligence (SSCI) began in July 2003, as well as a "minority inquiry" begun by Senator Carl Levin in June 2003.

(U) In July 2004, the Committee issued a unanimous report on "Phase I" of its investigation. That report concluded *inter alia* that policymakers at no time pressured the

IC to change its conclusions on Iraq's links to terrorism, and that the work of OSD staffers reviewed here did not result in any changes to the analytical judgments in IC work on Iraqi support for terrorism.[5] The Committee deferred to a second phase of its investigation an evaluation of whether the work products now under OIG review were "objective, reasonable, and accurate."[6] Because of divisions along partisan lines within the SSCI, its members have not to date been able to agree on what conclusions to reach in its "Phase II" report.

(U) SSCI Chairman Pat Roberts referred this matter to OIG only because these partisan divisions prevented the SSCI from reaching agreement on what to say about the activities reviewed in this Project. By the time he made the referral to OIG, the issue had been transformed from whether the work in question was "objective, reasonable and accurate" to whether it was "unauthorized, unlawful or inappropriate" -- even though the SSCI had uncovered no information to support such a characterization.

(U) In his September 9, 2005 letter requesting an independent review by OIG, Chairman Roberts wrote that "the Committee is concerned about persistent and, to date, unsubstantiated allegations that there was something unlawful or improper about the activities of the Office of Special Plans within the office of the Under Secretary of Defense for Policy during the period prior to the initiation of Operation Iraqi Freedom." He added that he had "not discovered any credible evidence of unlawful or improper activity, yet the allegations persist." He nevertheless asked the OIG to review "whether the personnel assigned to the Office of Special Plans, at any time, conducted unauthorized, unlawful or inappropriate intelligence activities."

(U) On September 22, 2005, Senator Carl Levin wrote in his capacity as Ranking Member of the Senate Armed Services Committee (SASC), asking the OIG to expand the scope of the review requested by Chairman Roberts. Specifically, Senator Levin requested that "you include all elements of the Office of the Under Secretary of Defense for Policy, including the Policy Counter Terrorism Evaluation Group (PCTEG) and the Policy Support office." He posed a number of questions for the OIG to answer.[7]

(U) In fact Senator Levin had already published his own conclusions on this matter nearly a year before the OIG took up its review. *See* "Report of an Inquiry Into the Alternative Analysis of the Issue of an Iraq-al Qaeda Relationship" (October 21, 2004), containing numerous incorrect allegations of improper conduct within OUSD(P).

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[5] (U) SSCI Report, p. 363.

[6] (U) SSCI Report, p. 312.

[7] (U) At Appendix B attached to these comments, we address in detail the Draft Report's answers to Senator Levin's questions.

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That report was part of the "minority inquiry" that Senator Levin has been pursuing into the subject matter of this Project since June 2003, without the endorsement of the SASC, the SSCI, or any other congressional committee as of early January 2007. The Draft Report (page 1) comments that Senator Levin's report "challenged some of the conclusions" in the SSCI's report of July 2004 but fails to note that Senator Levin himself, as a SSCI member, concurred in that same SSCI report and that the SSCI report was unanimous.

(U) It bears emphasis that the same set of facts and documents have been available to the SSCI and to Senator Levin throughout this process.

(U) More recently, on December 8, 2006, Representative Cynthia McKinney introduced articles of impeachment against the President of the United States, the first article of which makes the false assertion that the President and the Secretary of Defense created the OSP "to override existing intelligence reports by providing unreliable evidence that supported the claim that Iraq's alleged weapons of mass destruction posed an imminent threat to the United States of America."[8]

(U) Meanwhile, uninformed and inaccurate press reports have persisted, generally on the theme that the Office of Special Plans allegedly conducted a rogue intelligence operation before the Iraq war and fed incorrect or exaggerated intelligence information to senior policy makers in the Executive Branch, bypassing the Intelligence Community and contributing to an ill-informed decision to go to war in Iraq. These stories have been repeated so many times that they are now taken as established truth by some members of Congress and many commentators.

Page 1 Revised

(U) Indeed, even the Draft Report to some extent seems to fall prey to the hypnotic effect of these constantly repeated falsehoods. Instead of setting the record straight clearly and directly, the Draft Report relegates to a footnote (at page ii, repeated at page 1) the peculiar comment that:

> "The term Office of Special Plans has become generic terminology for the activities of the OUSD(P), including the Policy Counter Terrorism Evaluation Group and Policy Support Office. The actual Office of Special Plans had no responsibility for and did not perform any of the activities examined in this review."

(U) As the facts detailed below demonstrate, neither the OSP, the PCTEG, nor the Policy Support Office had any responsibility for the activities reviewed, and none of these units as such performed any of those activities. The Draft Report should say so forthrightly.

[8] (U) H. Res. 1106, 109th Cong., 2nd Sess. (8 December 2006).

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(U) The Draft Report should also say prominently and forthrightly that the most senior leaders of DoD directed these activities to be done by non-IC OSD staff members, not all of whom were even assigned to OUSD(P), rather than repeatedly mischaracterizing these actions as "OUSD(P)" activities.

(U) These and other deficiencies of the Draft Report, discussed in these comments, demonstrate that the OIG should reconsider its excursion into the policy and political issue of whether the lawful and authorized activities under review were "appropriate."

III. OUSD(P) SUPPORT TO THE OIG REVIEW (U)

(U) To assist the OIG in its review, this office provided copies of the thousands of pages of documents that we had already provided to the SSCI and to Senator Levin. We also provided various additional materials that the OIG requested. In addition, we arranged for the OIG to review certain documents that DoD had earlier declined to provide the Congress. We offered OIG the opportunity to review some ten file boxes containing all the documents we had collected in the course of our initial search in response to the SSCI's and Senator Levin's document requests, including documents that on review we had determined to be unresponsive and thus did not provide to Congress. We also provided all witnesses that we were in a position to produce for interviews requested by the OIG and suggested various additional individuals as possible witnesses.

IV. FACTS (U)

(U) Because of the need for a clear, complete and accurate account of the relevant facts, we provide a detailed statement of facts below. Throughout the factual narrative, we undertake to highlight the more significant factual errors in the Draft Report.

(U) A discussion section, examining the authorities and analysis set out in the Draft Report, follows the statement of facts.

(U) The Draft Report does not explain the origin or context of the work under review. By persistently mischaracterizing this work as "OUSD(P)" activities, the Draft Report conveys an incorrect impression that this work was an "OUSD(P)" initiative constituting an "inappropriate" intrusion into "intelligence functions that are the responsibility of Defense Intelligence" (page 14). The Draft Report mentions that "some of the actions were performed in response to inquiries from the Deputy Secretary of Defense and direction from the Secretary of Defense" (page 13), leaving the incorrect impression that such actions were somehow incidental to other (unspecified) actions attributable solely to the "OUSD(P)." Page 16 Revised

(U) In fact, all (not some) of the work characterized by the Draft Report as "inappropriate," specifically, three versions of a draft briefing on links between Iraq and

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al-Qaida and an internal staff memo done in preparation for the briefing, was in response to requests and taskings by either the Deputy Secretary or the Secretary of Defense. The Deputy Secretary directed that the draft briefing be prepared for the Secretary. After the Secretary received the draft briefing, he directed that it be shared with the DCI. When the Deputy National Security Advisor requested the draft briefing, the Deputy Secretary's office directed that it be given to him. Three OSD staff members had the primary responsibility to do this work. Two happened to be DIA analysts detailed to OUSD(P) and the third worked directly for the Deputy Secretary as his Special Assistant.

(U) How and why these particular three individuals became involved in this work were as follows:

A. Three Separate Activities Relating to the Work Under Review (U)

(U) There were three, initially separate, activities within the Office of the Secretary of Defense (OSD) that relate to the work under review in this Project. Some of the individuals involved in these three activities, and some strands of their work, eventually came together under the direction and oversight of the Deputy Secretary of Defense (DSD), who tasked certain work discussed below. That work, and certain resulting draft documents (critiquing IC work on the Iraq-al-Qaida relationship), are the actions that the Draft Report mischaracterizes as "alternative intelligence assessments" and "Intelligence Activities."

Page 1 Revised

(U) In its "Background" section the Draft Report discusses the OSP (page 3) but fails to make clear in the text that the OSP had nothing to do with any of the activities under review. None of this work or the resulting documents was done by, for, or under the direction of the OSP. The work reviewed in this Project was substantially completed before the OSP even came into *de facto* existence in mid-August 2002. (The Draft Report states that OSP was created in October 2002; it was in that month that certain formalities were implemented.) The Draft Report also errs in stating that the OSP was "disbanded" in July 2003. In fact it was merely renamed as the Office of Northern Gulf Affairs, remaining in NESA as before, and its personnel continued to perform their policy functions regarding that region.

(U) Likewise, none of this work or the resulting documents was done by, for, or under the direction of the PCTEG or the Policy Support Office as such.

(U) Nor did the Under Secretary of Defense for Policy ever approve or adopt any of the draft opinions or conclusions in any of the resulting documents as OUSD(P) positions, views or conclusions.

1. The PCTEG (U)

(U) The first activity relevant here was an ad hoc group, formed by the Under Secretary of Defense for Policy (USDP) shortly after the 9/11 attacks. The mission of that group was to review all available information about a number of international terrorist organizations with a basic focus on the question: What does it mean to be at war with a terrorist network?[9] The Draft Report erroneously states that this group was formed "to conduct an independent analysis of the al-Qaida terrorist network" (page 2). In fact, the group's work was not limited to al-Qaida but addressed more generally various major terrorist groups and their relations with their state sponsors. This group commenced work in approximately October 2001 with two members: a consultant, and a detailee from the Defense Threat Reduction Agency. The group requested and received relevant intelligence information from the Intelligence Community and did preliminary work on the subject assigned. Both members, however, left for other duties towards the end of 2001 and the beginning of 2002. Neither of them ever worked in or took direction from the OSP or the Policy Support Office.

(U) In January 2002 the USDP decided to continue the project in a more formal way, by naming the project the "Policy Counter Terrorism Evaluation Group" (PCTEG) and formally requesting detailees from DIA. The memo approving creation of the PCTEG described its task as follows:

- (U) Study al-Qaida's worldwide organization including its suppliers, its relations with States and with other terrorist organizations (and their suppliers).
- (U) Identify "chokepoints" of cooperation and coordination.
- (U) Identify vulnerabilities.
- (U) Recommend strategies to render the terrorist networks ineffective.[10]

(U) Also, as early as January 2002, the Deputy Secretary among others was raising questions about possible links between Iraq and the al-Qaida terrorist network.[11] In addition to the information and analyses he regularly received through established

[9] (U) Statement of Douglas J. Feith, Under Secretary of Defense for Policy, on the Policy Counter Terrorism Evaluation Group, before the Select Committee on Intelligence, U.S. Senate, 10 July 2003, *USDP and Senator Levin Correspondence, November 03-July 05*, Tab 14.

[10] (U) Memo from ASD (ISA) to USDP (31 January 2002), *USDP Congressional Correspondence November 02-February 04*, Tab 18.

[11] (U) Memo from DSD to USDP (22 January 2002), reproduced as Appendix E to the Draft Report.

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intelligence channels, the Deputy also asked for input from OUSD(P), including in a memo to the USDP on January 22, 2002.[12] He received a reply from the Assistant Secretary of Defense for International Security Affairs on January 24, 2002, summarizing information suggesting "few direct links" and other information "suggesting more robust indirect links."[13] There was nothing unusual or improper about this. How to assess the information provided by the IC and what, if any, decisions to make or conclusions to draw from it are central responsibilities of the Deputy and other senior policy officials of the Defense Department. It was not remarkable that the Deputy consulted OSD policy offices as well as the IC on possible links between Iraq and al-Qaida.

Page 2 Revised

(U) In February 2002 USDP requested the Director of DIA to provide three detailees to the PCTEG.[14] In response, DIA provided two of the three individuals requested, both reserve Naval intelligence officers then assigned to the J-2. Contrary to the Draft Report (page 2), these officers were not detailed to OUSD(P) in October 2001; rather, they were detailed in February 2002, as replacements for the two original members of the PCTEG who were gone by the time the two DIA detailees arrived. One of these DIA detailees departed in April 2002, leaving only one member of the "group," who continued to work as the sole member of the PCTEG until he was demobilized from Naval reserve duty in January 2003.[15]

(U) The PCTEG member who departed in April 2002 never worked in or took direction from the OSP or the Policy Support Office, nor did the sole remaining PCTEG member at any time relevant here.[16]

Page 2 Revised

(U) As originally conceived, the PCTEG was to function under the joint chairmanship of the Principal Deputy Assistant Secretary of Defense for SO/LIC and the Deputy Assistant Secretary of Defense for NESA[17] (not by the ASD (ISA) and ASD (SO/LIC) as the Draft Report incorrectly implies at page 2). But the group never had

[12] (U) *Ibid.*

[13] (U) Memo from ASD(ISA) to DSD (24 January 2002), reproduced as Appendix F to the Draft Report.

[14] (U) Memo for Director, Defense Intelligence Agency (2 February 2002), *ibid.*

[15] (U) Roster of PCTEG and Special Plans/Northern Gulf, *USDP Congressional Correspondence November 02-February 04*, Tab 16A.

[16] (U) After being demobilized from Naval reserve duty in 2003, the former single remaining PCTEG member did return to OUSD(P) and worked as a civilian in OSP for a time, but that was after the work relevant to this Project had been completed.

[17] (U) Memo from ASD (ISA) to USDP (31 January 2002), *USDP Congressional Correspondence November 02-February 04*, Tab 18.

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more than two members and soon dwindled to one; thus it never attained the degree of operational formality implied by this nominal joint chairmanship. When the DSD began to take a more active role on the specific issue of the relationship between Iraq and al-Qaida, as discussed below, the single remaining member of the PCTEG participated with others in replying to DSD taskings and at times responded directly to the DSD in that regard. At no time did the PCTEG report to or take direction from the OSP or the Policy Support Office.

(U) The PCTEG produced a 154-page draft briefing entitled "Understanding the Strategic Threat of Terror Networks and their Sponsors,"[18] which was revised and updated periodically. Consistent with the mission of the PCTEG, this briefing examined the methods and operations of various terrorist organizations (including but not limited to al-Qaida), the nature of their ties with their state sponsors, and various policy considerations on dealing with the threat posed by these groups.

(U) This briefing was the sole substantive work product by the PCTEG as such. The briefing was separate from the work, addressed in the Draft Report, on the specific issue of the Iraq-al-Qaida relationship.[19] The PCTEG briefing was an internal Policy staff-level product that was never presented outside the Policy organization and never approved by senior policy makers as an official OUSD(P) position, so far as any facts known to us are concerned, and the Draft Report does not contend otherwise. Indeed, the Draft Report only briefly mentions but does not discuss this solitary PCTEG product.

(U) The Draft Report mischaracterizes events in stating (page 3) that the one remaining PCTEG member created a briefing in the summer of 2002 on links between Iraq and al-Qaida "with the assistance of a member of OUSD(P)'s Policy Support Office and a Special Assistant to the Deputy Secretary of Defense." Here and throughout, the Draft Report ignores or downplays the central fact that the Deputy Secretary of Defense directed the work to be done, as discussed more fully below. He gave the assignment initially to his Special Assistant, not to the sole PCTEG member or the Policy Support Office staffer or anyone else in OUSD(P). The latter two individuals did participate in responding to the Deputy Secretary because of the circumstances explained in these comments. But it is a gross distortion to suggest, as the Draft Report does, that the sole PCTEG member originated this effort or that it was an OUSD(P) activity.

Page 3 Revised

(U) The Draft Report also mischaracterizes events in stating (at page 3) that "OUSD(P) dissolved the PCTEG shortly" after the draft briefing was given to the Deputy

Page 3 Revised

[18] (U) *Ibid.* Tab 15.

[19] (U) Although this PCTEG briefing was separate from the work on the specific issue of the Iraq-al-Qaida relationship done elsewhere in OSD, it obviously overlapped to a degree and eventually led to the one remaining PCTEG member's being included in the work on that single issue.

National Security Advisor and the Vice President's Chief of Staff in September 2002. There was no formal action dissolving the PCTEG; rather, the "group" withered away when its sole remaining member was demobilized from Naval reserve duty in 2003.

2. The DIA Analyst Detailed to the Policy Support Office (U)

(U) The second activity relating to the work under review was begun by a career DIA analyst whom DIA had detailed, in January 2002, to the former Policy Support Office of the Deputy Under Secretary of Defense (Policy Support) in OUSD(P). At no time did this detailee work in or take direction from the OSP or the PCTEG.

(U) DIA detailed this analyst in response to the USDP's by-name request. Although the Draft Report states (page 2) that the Policy Support Office requested this DIA analyst due "to the voluminous amounts of intelligence the office was receiving but was unable to assess," the quoted phrase does not appear in USDP's request. This analyst was a 25-year intelligence veteran who, at the time of USDP's request, was assigned to the Interagency Damage Assessment Team for the Robert Hanssen case. This analyst had had previous experience, *inter alia*, providing intelligence support to policy levels as well as experience in Foreign Denial and Deception analysis that the USDP needed to support certain intelligence-related duties then assigned to the Policy Support Office.[20]

~~(S//NF)~~ This analyst was tasked in the Policy Support Office to provide policy support for special access programs and to carry out other duties requiring a review of various intelligence products. Sometime in early 2002, in the course of her work, she came across a finished 1998 CIA report on [redacted] The report mentioned that Usama Bin Laden had requested and received certain training from an Iraqi [redacted] service. On her own initiative, she requested and received through CIA channels the underlying information on which the item was based, [redacted] and subsequently obtained additional CIA reports from DIA and CIA on the issue of Iraq and al-Qaida.[21]

(U) As this was the only reporting that this analyst had seen on Bin Laden in this connection, and because she considered it important data for a discussion on Iraqi intelligence and al-Qaida, she wrote a one-page "assessment" (in her words) of the IC reporting and gave it to the DUSD (PS), ASD (ISA), USDP, and DSD.[22]

[20] (U) Memo from USDP to Director, DIA (23 November 2001), *USDP Congressional Correspondence November 02-February 04*, Tab 17; Memorandum for the Record (30 October 2002), *ibid.*

[21] (U) Memorandum for the Record (17 April 2002), Memorandum for the Record (30 October 2002), *USDP Congressional Correspondence November 02-February 04* Tabs 17 and 18. b(1)

[22] (U) Memorandum for the Record (17 April 2002), *ibid* at Tab 17. b(3)

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(U) Again on her own initiative, in early spring 2002 the analyst met with the chief of DIA's Joint Intelligence Task Force for Combating Terrorism (JITF) and gave him a copy of the reference in the finished CIA report, the two underlying reporting documents, and her one-pager. (This one-pager should not be confused, as the Draft Report seems to do, with a later, July 25, 2002 internal memo that this analyst wrote in preparation for the August 2002 briefing to the Secretary of Defense, discussed below.[23]) She recommended that the JITF publish the IC reporting data "so that it would be available to the entire IC because reports published previously did not contain this important data" and that, without it, "analysis of the subject would be incomplete and inaccurate in the future."[24] Over the next two weeks she spoke twice with the JITF chief, who told her he had given the materials to the J-2's senior analyst but had heard nothing back.

(U) The analyst then called the J-2's senior analyst and again recommended that the IC reporting information be published to the entire IC. The J-2 analyst responded that "putting it out there would be playing into the hands of people like Wolfowitz," that the information "was old" and "only a tid-bit," asked how did she "know that the information was true," made a comment about trying to support "some agenda of people in the building," and bucked the issue of publication back to the JITF chief.[25] The JITF took no further action on the recommendation to publish the information, so far as we know.

(U) Meanwhile, the DIA analyst detailed to the Policy Support Office continued to gather and review CIA material on Iraq and al-Qaida. At some point in April or May

Page 6 Revised

[23] (U) The Draft Report (page 8) states that this analyst attempted but failed to persuade the JITF Director and the J-2's senior analyst to publish as an "Intelligence Finding" a July 25, 2002 memo, entitled "Iraq and al-Qaida: Making the Case." The July memo was an internal document that she wrote in preparation for the SecDef briefing, as discussed more fully below. Nothing in the record known to us indicates any attempt to obtain IC concurrence with the content of the July 25, 2002 memo, nor was there any requirement to do so. Comments to that effect in the Draft Report seem to be a mistaken reference to the earlier effort, in the spring of 2002, to persuade the IC to publish intelligence reports the analyst had found about Iraqi training provided to Bin Laden. The Draft Report claims that "OUSD(P) proceeded to disseminate" the briefing to the SecDef despite being "unsuccessful in convincing the Intelligence Community to publish the alternative intelligence assessments as an Intelligence Finding." This claim is wrong. There was no attempt to get the IC to publish "alternative intelligence assessments," there was no requirement to do so, there was no requirement for IC concurrence on the briefing the DSD had directed to be given to the SecDef, and neither the July memo nor the August 2002 briefing contained any "alternative intelligence assessment."

[24] (U) Memorandum for the Record (17 April 2002), *USDP Congressional Correspondence November 02-February 04*, Tab 17.

[25] (U) *Ibid.* Judging from this response, the J-2's senior analyst may have been unfamiliar with DIA's DI Policy No. 005 (5 June 2001), the first sentence of which states, "Curiosity and integrity are the hallmarks of good analysis."

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2002, she became aware of the broader work by the PCTEG on various terrorist organizations.[26]

3. The Deputy Secretary's Tasking to Brief the Secretary of Defense (U)

(U) Soon thereafter, in approximately July 2002, the DSD initiated the third strand of work relevant here – the strand that resulted in the activities labeled as "inappropriate" in the Draft Report. Specifically, the DSD directed his Special Assistant[27] to prepare a briefing for the Secretary of Defense on Iraq and links to al-Qaida, based on a review "in a different framework" of IC reports on connections between al-Qaida and Iraq.[28] In particular, this review was motivated by the issue of whether there was any *a priori* reason to believe that ideological opponents, (e.g., secular Iraqi Baathists and Islamic extremists) would never cooperate against a common foe. By this point in time, the DSD's Special Assistant, the DIA analyst detailed to the Policy Support Office, and the single remaining member of the PCTEG had all become aware of the separate but related work of each. Accordingly, the three of them collaborated in preparing the briefing for the Secretary of Defense as directed by the DSD.

Page 13 Revised

(U) The record does not support the Draft Report's assertion (page 12) that the Deputy Secretary asked for an "intel briefing" when he tasked his Special Assistant to prepare the briefing for the Secretary on Iraq and al-Qaida. That characterization only appears in an internal e-mail, the author of which was not present when the Deputy gave the tasking and had no personal knowledge of how the Deputy in fact formulated his instructions.[29]

(U) The Report makes much of an internal July 25, 2002 memo entitled "Iraq and al-Qaida: Making the Case." This memo is dated after its author, the DIA detailee to Policy Support, learned of DSD's instruction to his Special Assistant to prepare the briefing for the Secretary of Defense[30] and, according to its author, was done preliminary

[26] (U) Memorandum for the Record (30 October 2002), *USDP Congressional Correspondence November 02-February 04*, Tab 18.

[27] (U) DSD's Special Assistant at the time was an individual detailed to DSD from the Policy organization. At all relevant times this Special Assistant reported directly to, and took direction exclusively from, the DSD. At no time did the Special Assistant work in or take direction from the OSP, the PCTEG, or the Policy Support Office.

[28] (U) Explanatory Note to E-Mail of 7/22/02, *USDP Congressional Correspondence November 02-February 04*, Tab 17.

[29] (U) *Ibid.*

[30] (U) E-mail dated July 22, 2202, *USDP Congressional Correspondence November 02-February 04*, Tab 17.

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to that briefing.[31] The Report asserts (page 6) that this memo constituted an "OUSD(P)... alternative intelligence assessment."[32] The Report claims that there was then a "translation of that alternative intelligence assessment" into the briefing for the Secretary of Defense, which "translation" the Draft Report characterizes (page 6) as an "Intelligence Activity, and more specifically, Intelligence Production" on the part of OUSD(P).

(U) To the contrary, the July 25, 2002 memo was not an "OUSD(P)" assessment of any sort, let alone an "alternative intelligence assessment." Nor was it an "Intelligence Finding" as the Draft Report misleading implies (page 6). It was, rather, a staff-level memo containing only two introductory paragraphs of commentary, followed by a list summarizing various IC reports on contacts between Iraq and al-Qaida.

(U) The Draft Report erroneously asserts (page 9) that the memo described these as "known" contacts. It does not. The phrase "known contacts" does not appear in the memo.

Page 8 Revised

(U) The two introductory paragraphs of the July 25 memo read as follows:

> **(U)[33] Some analysts have argued that Usama Bin Laden would not cooperate with secular Arab regimes such as Iraq because of differences in ideological and religious beliefs. Reporting indicates otherwise. In fact, a body of intelligence reporting for over a decade from varied sources reflects a pattern of Iraqi support for al-Qaida activities. The covert nature of the relationship makes it difficult to know the extent of that support. Moreover, intelligence gaps exist because of ... Iraq's need to cloak its activities, thus preventing collection of information on additional contacts between Iraq and al-Qaida.**
>
> **(U)[34] Published intelligence analyses continue to suggest that ties between Iraq and al-Qaida are not "solid" or "provable." Intelligence**

[31] (U) Letter from USDP to Hon. Pat Roberts (June 29, 2004), *USDP Congressional Correspondence March 04-August 04*, Tab 30.

[32] (U) In contrast, the DIA Senior Intelligence Analyst in the JITF-CT said that the memo had "no intelligence value" because, in the words of the Draft Report, it "contradicted the Intelligence Community assessments...." (Draft Report page 9).

[33] (U) The original version of this paragraph was classified. The classified information has been omitted and the paragraph declassified accordingly.

[34] (U) The original version of this paragraph was classified because of content in the bullets that followed it. Those bullets have been omitted here, and the paragraph declassified accordingly.

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assessments do not require juridical evidence to support them. Legal standards for prosecution needed in law enforcement do not obtain in intelligence assessments, which look at trends, patterns, capabilities, and intentions. Based on these criteria, the following information clearly makes the case for an Intelligence Finding – that Iraq has been complicit in supporting al-Qaida terrorist activities.[35]

(U) The Draft Report does not define the term "intelligence assessment," and we are not aware of a commonly accepted definition. But it is apparent that the above-quoted paragraphs are merely making an argument that the *Intelligence Community* should make an "Intelligence Finding" that Iraq had been complicit in supporting al-Qaida terrorist activities. Considering the far more explicit statements to Congress about Iraqi assistance to al-Qaida by the Director of Central Intelligence (DCI) himself, discussed below, the quoted comments by DIA's detailee to Policy hardly seem extreme. In any case they do not rise to the level of an "intelligence assessment" by the "OUSD(P)" or an "Intelligence Finding" by anyone.

Page 11 Revised

(U) The Draft Report asserts (page 8) that "OUSD(P) disseminated alternative intelligence assessments without Intelligence Community consensus to senior decision-makers." The Draft Report asserts (page 8) that OUSD(P) should have followed procedures contained in DIA's DI Policy No. 005 (5 June 2001), which allegedly "detailed appropriate methods within Defense Intelligence for addressing alternative judgments in those rare instances where consensus could not be reached."

(U) These assertions are wrong. Apart from the fact that the work was not "OUSD(P)" assessments and not in any case "intelligence assessments," the Draft Report ignores the fact that the Deputy Secretary had asked for a critical reading by non-IC staff members of assessments already provided by the IC. He had not asked for an alternative intelligence judgment and specifically directed that a "consensus" with the IC was not the purpose of this work. As the Deputy wrote in a memo after the briefing to the Secretary:

> "That was an excellent briefing. The Secretary was very impressed. He asked us to think about some possible next steps to see if we can illuminate the differences between us and the CIA. The goal is not to produce a consensus product, but rather to scrub one another's arguments" (emphasis in original).[36]

(U) It would have been contrary to the Deputy's direction, not to say futile, for the staffers doing this work to have sought an IC consensus on what was specifically

[35] (U) The full text of the July 25, 2002 memo is attached as Tab 2 to Letter from USDP to Hon. Pat Roberts (June 29, 2004), *USDP Congressional Correspondence March 04-August 04*, Tab 30.

[36] (U) Memo from Paul Wolfowitz to Tina Shelton, et al. (8 August 2002), *USDP Congressional Correspondence November 02-February 04*, Tab 17.

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intended as a critique of IC work, not as a competing "intelligence assessment." Yet the OIG apparently believes that it would have been more appropriate for these staff members to have disregarded the Deputy's direction.

Page 14 Revised

(U) Even if the objective had been to obtain an "alternative intelligence judgment" from the IC, which the Draft Report inexplicably seems to say was or should have been the case, neither DI Policy No. 005 nor DI Policy No. 004 (also cited by the Draft Report) provides any procedure whatever for the DIA's customers to obtain such an alternative judgment. Both documents are confined solely to situations in which a DIA analyst, working as such within DIA, wishes to put forward an alternative analysis or alternative judgment through DIA's chain of command. In the present case, one of the individuals responding to the Deputy's tasking had no connection with DIA at all, and the other two were working in policy positions on detail to OUSD(P). There is no factual or legal basis for the Draft Report's assertion that these internal DIA policies continued to apply to these detailees while assigned to OUSD(P). The full texts of these internal DIA policies are attached at Appendix A.

Page 11

(U) The Report claims (page 8) that the DIA detailee who wrote the July 25, 2002 memo "requested first from the Director of the Joint Intelligence Task Force for Combating Terrorism (JITF-CT) and then the Joint Staff J2's Senior Analyst to publish the alternative intelligence assessment as an 'Intelligence Finding,'" rather than using "the standard process of coordinating to obtain consensus from the Intelligence Community" or to "follow the procedures for developing an Alternative Judgment." Apart from the mischaracterization of this memo as an "alternative intelligence assessment," the Draft Report lends great weight to this supposed failure in obtaining IC concurrence, stating (page 8) that "OUSD(P) proceeded to disseminate the August 2002 briefing" to the Secretary though having been "unsuccessful in convincing the Intelligence Community to publish the alternative intelligence assessments as an Intelligence Finding."

Page 11 Revised

(U) As noted above, this comment may be a mistaken reference to an earlier unsuccessful attempt by the DIA detailee to persuade the JITF to publish intelligence reports she had found on certain training provided to Bin Laden by Iraqi services. Whether or not the memo's author attempted to coordinate it with the JITF or J-2, there was no requirement to do so since the memo was an internal Policy staff product done in preparation for a briefing that the DSD had directed his staff to prepare for the Secretary of Defense.

(U) It bears emphasis that the DSD gave this direction to his staff, not to the Intelligence Community, as discussed above. Presumably the OIG has interviewed the former DSD to explore his reasons for so doing, though the Draft Report does not elucidate this. The written record seems clear, however, that the DSD was not seeking to have the IC publish an "Intelligence Finding" and was expressly not trying to produce a

consensus product with the IC. Rather, he wanted a critique from a policy perspective of information already provided by the Intelligence Community, followed by an exchange of views with the IC to see how the various arguments might hold up in the give and take of vigorous debate.

B. Draft Briefing to the Secretary of Defense (U)

(U) The briefing, marked "draft," was given to the Secretary on August 8, 2002[37] and became the first of three versions of the briefing as explained below, all of which were marked as "Draft" or "Draft Working Papers."[38] Entitled "Assessing the Relationship Between Iraq and al Qaida," the briefing summarized existing intelligence products and traffic on contacts between Iraq and al-Qaida. The briefing asked *but did not directly answer* the following "Key Questions":

- (U) "What is the probability that there are contacts between Iraq and al Qaida?"
- (U) "What is the probability that there is cooperation regarding such support functions as finances, expertise, training and logistics?"
- (U) "What is the probability that Iraq and al Qaida actually coordinate on decisions or operations?"
- (U) "What is probability that if a relationship existed, Iraq and al Qaida could conceal its depth and characteristics from the United States?"

The briefing then identified various areas of activity in which Iraq and al-Qaida *might* have an incentive to cooperate, and for each area summarized the available intelligence relating to Iraq's and al-Qaida's actions in those areas over time.

(U) One slide entitled "What Would Each Side Want From a Relationship?" lists several categories of potential Iraqi and al-Qaida objectives that each side might help the other in fulfilling (e.g., training, financing, disruption of Kurdish opposition, etc.). It is specifically in regard to these categories that the briefing slide stated "Intelligence indicates cooperation in all categories; mature, symbiotic relationship."

[37] (U) Memo from Paul Wolfowitz to Tina Shelton, et al. (8 August 2002), *USDP Congressional Correspondence November 02-February 04*, Tab 17.

[38] (U) All three versions of the briefing are attached to Letter from USDP to Hon. Carl Levin (25 March 2004), *USDP and Senator Levin Correspondence, November 03-July 05*, Tab 9.

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(U) The Draft Report (page 6) misquotes this slide by transforming the subjunctive question in the slide's title ("what would each side want...?") into an unconditional assertion of "what each side wants from a relationship."

(U) Contrary to the Draft Report's mischaracterizations (e.g., page 8), the briefing did not assert that intelligence indicated cooperation in all categories of possible endeavor or a mature, symbiotic relationship in all respects, and "OUSD(P)" most certainly never so contended. No category listed on this slide, and nothing elsewhere in any version of the draft briefing, referred to cooperation in the conduct of specific terrorist operations or to cooperation in operations of any sort. Page 6

(U) Here and throughout, the Draft Report misstates what the draft briefing said. It overstates the briefing's caveated observations as "assessments" and "conclusions," always arbitrarily attributed to "OUSD(P)."

(U) The whole thrust of the draft briefing was to examine the question, in response to DSD's tasking, whether existing intelligence might suggest alternative interpretations if one assumed that Iraq and al-Qaida might be willing to cooperate in a relationship that both would have compelling reasons to hide, and to ask what each side might want from such a relationship.

(U) The question was pertinent because a contrary assumption underpinned a considerable part of the IC analysis, namely, that Iraq's secular Baathist regime and Islamic extremists such as al-Qaida would not cooperate because of their ideological and religious differences. The Draft Report fundamentally errs in failing to review the draft briefing in the light of its purpose – to respond to DSD's request for an alternative view based on an alternative assumption.

(U) Each version of the draft briefing included a slide entitled "Findings." None of these "findings" asserted cooperation between Iraq and al-Qaida in all possible categories of endeavors or a mature relationship in general. The "findings" in their entirety were as follows:

- (U) "More than a decade of numerous contacts"
- (U) "Multiple areas of cooperation"
- (U) "Shared anti-US goals and common bellicose rhetoric
  -- Unique in calling for killing of Americans and praising 9/11"
- (U) "Shared interest and pursuit of WMD"

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- (U) "[One indication of][39] [One possible indication of][40] [Some indications of possible][41] Iraqi coordination with al Qaida specifically related to 9/11"

- (U) "Relationship would be compartmented by both sides, closely guarded secret, indications of excellent operational security by both parties"

(U) The reference to possible "coordination with al Qaida specifically related to 9/11" was at no time presented as a conclusion that Iraq and al-Qaida had in fact cooperated in regard to the 9/11 attacks.

(U) Furthermore, both versions briefed outside the Defense Department were caveated by the word "possible" in reference to "coordination." And *all three versions* of the draft briefing included an additional caveat, in a slide preceding the "Findings" slide, stating that "*fragmentary* reporting points to *possible* Iraqi involvement" in 9/11 and previous al-Qaida attacks (emphasis added).

(U) These caveated statements in the draft briefing were not "OUSD(P)" "assessments" and were not presented as such at any of the three presentations of the briefing.

Page 6

(U) The Draft Report errs in its repeated assertion (e.g., page 7) that "OUSD(P) assessed the Iraq – al-Qaida relationship as having a higher degree of cooperation than those conclusions supported by the Intelligence Community." As discussed above, the draft briefing was more conditional and less certain in its discussion of "possible" cooperation than the Draft Report asserts.

Page 8

(U) On the other hand, the DCI's statements on the subject – which the Draft Report does not address – were more robust than the OIG admits. The Draft Report attempts to portray a wide gulf between the draft briefing's observations and the IC's assessments by quoting from IC products stating that there are "no conclusive signs of cooperation on specific terrorist operations" and no "compelling evidence demonstrating direct cooperation" (page 7). But, as discussed, the draft briefing never asserted that there was any operational relationship or any cooperation on specific terrorist operations.

(U) In any event the draft briefing was not an "OUSD(P)" assessment of any sort. Nowhere did any version of the draft briefing state that it presented an "OUSD(P)" position or assessment, the USD(P) never approved or represented the draft briefing as an

[39] (U) Version briefed to the Secretary of Defense.

[40] (U) Version briefed to the DCI.

[41] (U) Version briefed to the Deputy National Security Advisor.

"OUSD(P)" assessment, the Draft Report cites no facts supporting its repeated assertions to the contrary, and there are none.

C. The Secretary of Defense's Direction to Brief DCI, Draft Briefing to DCI, CIA Meeting (U)

(U) After receiving the briefing on August 8, 2002, the Secretary of Defense directed that it be given to the DCI, which was done on August 15, 2002 at the CIA.[42] The USDP attended this meeting and was accompanied by two of the authors of the briefing. At the outset of the meeting the USDP made a statement stressing that this briefing was merely one way of looking at the underlying information, that no one was saying it was necessarily the correct way, and that there were also other ways to view the information. In other words, he made clear that the briefing was for the purpose of discussion and was not presented as an approved OSD or OUSD(P) position.

(U) The draft briefing as given to the DCI did not include a slide entitled "Fundamental Problems with How Intelligence Community is Assessing Information" that was included in the other two versions. This slide criticized the IC for applying an overly strict "juridical" standard in its assessments of the Iraq-al-Qaida relationship, underestimating the importance each side would attach to hiding a relationship, and making an assumption that secularists and Islamists would not cooperate even when they had common interests. It was omitted from the DCI briefing because its critical tone at the DCI-hosted meeting might have distracted from a discussion of the substance.[43] Even without the omitted slide, however, it was clear from the overall content that the draft briefing was suggesting insufficient attention and analysis by the IC to a number of intelligence reports on contacts between Iraq and al-Qaida – a point that was made explicitly at a subsequent meeting at CIA on August 20, 2002, discussed below.

(U) The reference in the briefing to possible Iraqi coordination with al-Qaida related to 9/11 was based on a report from the Czech intelligence service that future 9/11 highjacker Mohammad Atta had met with the Prague chief of the Iraqi Intelligence Service in April 2001. All three versions of the draft briefing, including the one given to the DCI, had a slide entitled "Summary of Known Iraq-al Qaida Contacts, 1990-2002" that included the statement "2001: Prague IIS Chief al-Ani meets with Mohammad Atta in April."

~~(S//F)~~ Whether or not it was an overstatement to describe the reported Atta meeting as a "known contact," the fact is that at the time of this briefing the Czech intelligence service stood firmly by its repor[redacted] b(1) b(3)

[42] (U) SSCI Report, p. 362.

[43] (U) Letter from USDP to Hon. Carl Levin (25 March 2004), *USDP and Senator Levin Correspondence, November 03-July 05*, Tab 9.

[redacted] In contrast, the CIA report cited at page 7 of the Draft Report describes the reporting on the alleged meeting as ". [redacted] The DIA report, also cited at page 7, states that the Atta meeting is [redacted] But at no time relevant to this Project did the US Intelligence Community articulate and disseminate any conclusive coordinated judgment that the reported Atta meeting did not occur.

(U) In any case all versions of the draft briefing merely spoke of an "indication" of "coordination" regarding 9/11 in regard to this alleged meeting, both versions presented outside the Defense Department added the further caveat of "possible," and no version of the draft briefing asserted that Iraq and al-Qaida actually cooperated operationally or otherwise in regard to the 9/11 attacks.

(U) Furthermore, during all times relevant to this Project the question of the reported Atta meeting was well known and vigorously discussed throughout USG policy and intelligence circles with responsibility for Iraq. There can be no doubt that all recipients of the draft briefing, and most particularly the Secretary of Defense, the DCI, the Deputy National Security Advisor and the Vice President's Chief of Staff, were aware of the controversy surrounding the alleged meeting. They all were recipients of the IC's judgments on this and related matters, both before and after receiving the draft briefing. There is no factual basis whatever to suggest that any of them would have been misled by anything about this meeting in any version of the draft briefing, or would have misunderstood the draft briefing to be some sort of "intelligence assessment" by OUSD(P).

(U) The DCI reportedly found the briefing "useful."[44] The DCI asked the OUSD(P) staffers to speak with the CIA's NESA and CTC experts on Iraq and terrorism. As a result, the two OUSD(P) staffers who briefed the DCI were invited to attend an August 20, 2002 meeting of analysts from the CTC, NESA, the National Security Agency and the DIA who convened to discuss ongoing intelligence community work assessing Iraq's links to terrorism. At the meeting the OUSD(P) staffers pointed out various intelligence reports that had not been included in finished intelligence products and suggested that such reports should be included. Some of their suggestions were adopted and some were not.

(U) The Draft Report notes (page 10) that in this meeting the "CIA was even willing to footnote its report with the OUSD(P) conclusions that differed from the report's findings." In fact, there was no offer to footnote "OUSD(P) conclusions," and in any case there were no "OUSD(P) conclusions" on the matter at hand, hence none to

[44] (U) Memo Entitled "Quick Points on the Policy Team's Visit with DCI" (16 August 2002), *USDP and Senator Levin Correspondence, November 03-July 05*, Tab 9.

b(1)

b(3)

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footnote. Also, the OUSD(P) staffers in attendance did not decline footnotes because they were "unable to speak for Defense Intelligence" as the Draft Report (page 10) puts it, although in fact they were not. The actual exchange was simply this: One of the OUSD(P) staffers (the DIA analyst to the Policy Support Office), when asked to prepare footnotes on the issues with which *she* disagreed, declined to do so, stating that "I was an employee in Policy, not wearing an intelligence hat. I could only ask why reporting was not included in finished products and ... make recommendations to include it."[45]

(U) In its unanimous report on pre-war intelligence issues in July 2004, the Senate Select Committee on Intelligence stated that all attendees of the August 20, 2002 meeting "interviewed by the Committee staff (eight of the twelve individuals) agreed that the OUSDP staffers were not given special treatment[,] ...their attendance contributed to a frank exchange of opinions" and they "played by IC rules...."[46] The Committee Report also noted more generally that:

> "In some cases, those interviewed stated that the questions had forced them to go back and review the intelligence reporting, and that during this exercise they came across information they had overlooked in initial readings. The Committee found that this process – the policymakers probing questions – actually improved the Central Intelligence Agency's ... products."[47]

D. Deputy National Security Advisor's Request, DSD's Direction, Draft Briefing to Deputy National Security Advisor (U)

(U) The Draft Report mischaracterizes these events as "Dissemination of OUSD(P)'s Alternative Intelligence Assessment to the White House" page 10). What transpired is this:

Page 9 Revised

(U) Following a reference to the briefing at a Deputies Committee meeting in August 2002, the Deputy National Security Advisor requested to receive the briefing. The Deputy DCI was a designated member of the Deputies Committee, and he or his designee consistently attended its meetings. On the morning of September 16, 2002, the Deputy Secretary's office instructed the OUSD(P) staffers who had helped prepare the draft brief to present it to the Deputy National Security Advisor and the Vice President's Chief of Staff. They did so the same day at a meeting hosted by the Deputy National Security Advisor in the Situation Room, with the Vice President's Chief of Staff attending for at least part of the meeting.

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[45] (U) Memorandum for the Record (30 October 2002), *USDP Congressional Correspondence November 02-February 04*, Tab 17.

[46] (U) SSCI Report, pp. 362, 363.

[47] (U) SSCI Report, p. 34.

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(U) The Draft Report fails to mention that the OUSD(P) staffers gave the September 16 briefing because they were instructed to do so by the Deputy Secretary's office in response to the Deputy National Security Advisor's request. The Draft Report does correctly state (page 29) that there was no requirement for the DCI to be informed of this meeting. One might reasonably observe that there was no requirement because the meeting was not an intelligence meeting.

(U) In any case, this version of the draft briefing, just as the previous two versions, contained no intelligence assessment and was not presented as an official OUSD(P) position. It was presented not as an intelligence briefing but as an alternative assessment of IC reports, just as the prior two versions of the briefing.

Page 11 Revised

(U) The Draft Report states (page 11) that this version of the draft briefing included a "previously unseen" slide entitled "Facilitation: Atta Meeting in Prague." The Draft Report fails to point out that the slide was "previously unseen" because it did not previously exist. The Draft Report incorrectly asserts that this new slide presented the alleged Atta meeting "as fact" (page 11). Nowhere does the slide describe the meeting as "fact." To the contrary, the slide repeatedly uses phrases such as "Czech service reports that Atta visited ...," "despite press reports of conflicting information, Czech Interior Minister ... stands by previous Czech ... reporting," "Atta reportedly held meetings...," and "Atta reportedly arrives in Prague...."[48]

(U) Furthermore, the attendees at this version of the draft briefing were well informed senior officials who had access to all the IC's most highly classified and compartmented information on the subject of the alleged Atta meeting. The Deputy National Security Advisor and the Vice President's Chief of Staff certainly were familiar with the debate in the US Intelligence Community on this subject. It is ludicrous to suggest that they would have mistaken this slide or anything else in the draft brief as firm assertions of fact, much less as "intelligence assessments" by "OUSD(P)" or anyone else.

E. DCI's Congressional Statements on Iraq and al-Qaida (U)

(U) The Draft Report partially quotes from several IC reports, casting doubt on the existence of any significant cooperation between Iraq and al-Qaida, in asserting that the work under review overstated the degree of cooperation and hence "OUSD(P)" did not provide "the most accurate analysis of intelligence" (page 11). As noted above, the responsibility to provide "the most accurate analysis of intelligence" rests with the IC, not OUSD(P). More importantly, senior decision-makers already had the IC's reports and assessments on Iraq and al-Qaida and thus already had "the most accurate analysis of

[48] (U) *USDP and Senator Levin Correspondence, November 03-July 05*, Tab 9.

intelligence" -- if one accepts, as the Draft Report seems to do, that the IC's assessments are the "most accurate".

(U) It is puzzling, therefore, that the Draft Report fails to discuss some of the most authoritative articulations of the IC's analysis on Iraq and al-Qaida – the vetted, coordinated correspondence and testimony by the DCI himself to the Congress. On October 7, 2002, the DCI wrote to SSCI Chairman Graham, responding to various questions raised in connection with the forthcoming debate on a joint resolution to authorize military action against Iraq. Regarding questions about Iraqi links to al-Qaida, the DCI wrote that Senators could draw from the following points for unclassified discussions:

- **Our understanding of the relationship between Iraq and al-Qa'ida is evolving and is based on sources of varying reliability. Some of the information we have received comes from detainees, including some of high rank.**

- **We have solid reporting of senior level contacts between Iraq and al-Qa'ida going back a decade.**

(U) By comparison, the draft briefing referred to "more than a decade of numerous contacts. The DCI's letter continued:

- **Credible information indicates that Iraq and al-Qa'ida have discussed safe haven and reciprocal non-aggression.**

(U) The draft briefing referred to "safe haven of last resort" as an objective that al-Qaida would want from a relationship with Iraq. The DCI's letter continued:

- **Since Operation Enduring Freedom, we have solid evidence of the presence in Iraq of al-Qa'ida members, including some that have been in Baghdad.**

(U) The draft briefing said that "Iraq Has Provided Safe Haven for Key Terrorists," among them al-Qaida members, including some in Baghdad. The DCI's letter continued:

- **We have credible reporting that al-Qa'ida leaders sought contacts in Iraq who could help them acquire WMD capabilities. The reporting also stated that Iraq has provided training to al-Qa'ida members in the areas of poisons and gases and making conventional bombs.**

(U) The draft briefing said that Iraq and al-Qaida had a "shared interest and pursuit of WMD," that "CBRN" would be an al-Qaida objective, and that al-Qaida had sought bomb-making assistance. The DCI's letter continued:

- **Iraq's increasing support to extremist Palestinians, coupled with growing indications of a relationship with al-Qa'ida, suggest that Baghdad's links to terrorists will increase, even absent military action.**[49]

(U) In a prepared statement to the SSCI on February 11, 2003, DCI Tenet said:

Iraq has in the past provided training in document forgery and bomb-making to al-Qa'ida. It also provided training in poisons and gasses to two al-Qa'ida associates; one of these associates characterized the relationship he forged with Iraqi officials as successful. Mr. Chairman, this information is based on a solid foundation of intelligence. It comes to us from credible and reliable sources.[50]

(U) At a Senate Armed Services Committee hearing on February 12, 2003, the DCI stated:

[W]e also know from very reliable information that there's been some transfer of training in chemical and biologicals [sic] from the Iraqis to al Qaeda.[51]

(U) From these statements by the DCI on behalf of the Intelligence Community, it is clear that the IC "consensus" at the time ascribed considerably more "maturity" and "symbiosis" to the relationship between Iraq and al-Qaida than depicted in the Draft Report. It is also clear that the Draft Report significantly overstates the degree and significance of inconsistencies between the IC consensus and the draft briefing's observations. In any case the draft briefing was nothing more than a draft, it was not an "intelligence assessment," and it was not an "OUSD(P)" assessment or conclusion.

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[49] (U) Letter George Tenet, DCI, to Hon. Bob Graham, Chairman SSCI (7 October 2002), in *E-Mail from Michael H. Mobbs (OUSDP) to Charles E. Edge (OIG) (7 February 2006), at Tab C.*

[50] (U) "Administration Statements on Iraq Training al Qa'ida in Chemical and Biological Weapons," attached to Press Release by Senator Carl Levin Re: Levin Says Newly Declassified Information Indicates Bush Administration's Use of Pre-War Intelligence Was Misleading (6 November 2005), in *E-Mail from Michael H. Mobbs (OUSDP) to Charles E. Edge (OIG) (7 February 2006), at Tab C.*

[51] (U) *Ibid.*

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V. DISCUSSION (U)

A. Why are Lawful and Authorized Activities Nevertheless Called "Inappropriate"? (U)

(U) The Draft Report concludes that the activities reviewed in this Project were lawful and authorized (pages ii, 4, 13). It states that within the authority conferred by Title X, Section 113 of the United States Code, "the Secretary owns the DoD Directives governing (among others) Intelligence and Policy, and as long as Executive Orders or other legal statutes are not violated, he has the latitude to interchange roles and responsibilities" (page 34). Page 37

(U) Despite these conclusions, the Draft Report asserts that these same activities were "inappropriate," in the OIG's opinion, because the "OUSD(P)" "products did not clearly show the variance with the consensus of the Intelligence Community and were, in some cases, shown as intelligence products" (page 4).

(U) It is somewhat difficult to understand how activities that admittedly were lawful and authorized (in this case by either the Secretary or the Deputy Secretary of Defense) could nevertheless be characterized as "inappropriate" – particularly considering OIG's concession that the Secretary (and by logical extension the Deputy) may interchange roles and responsibilities within DoD provided no statutes or executive orders are violated. The Draft Report points to no laws, executive orders, DoD directives, DoD instructions or DoD publications that provide any guidelines for what is "appropriate" in this case, except for the Secretary's broad mandate under Title X. That mandate leads to a conclusion that the activities reviewed were "appropriate."

(U) The Draft Report is spare of analysis on why its reaches the opposite conclusion. The argument seems to be as follows:

- (U) DIA detailees to OUSD(P) reviewed the same intelligence information that the IC had used when drawing IC judgments about links between Iraq and al-Qaida. This was appropriate for policy formulation (page 12). Page 6
- (U) Appropriate policy formulation, however, "evolved into Intelligence Analysis and eventually culminated in the Intelligence Activity of Intelligence Production with the creation of alternate intelligence assessments and dissemination when the briefing was provided to the Secretary of Defense, DCI, and members of the Office of the Vice President and National Security Counsel" (page 12).
- (U) This supposed "evolution" was inappropriate because it led to performance by "OUSD(P)" of "intelligence functions that are the responsibility of Defense Intelligence" (page 14), the work products "did not clearly show the variance with Page 16 Revised

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the consensus of the Intelligence Community" (page 4), and the work products "were, in some cases, shown as intelligence products" (page 4).

Deleted

- (U) If "OUSD(P)" did not consider the IC's existing "judgment" about Iraq and al-Qaida to be correct, "OUSD(P)" should have used "existing procedures" to get a second IC "judgment" by requesting "from the Defense Intelligence community an Alternative Judgment" on that subject (pages 13-14) – instead of participating in an OSD critique of the existing IC judgment as directed by the DSD. Such "existing procedures" are said to be found in two internal DIA policies cited in the Draft Report (DI Policy Nos. 004 and 005).

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(U) It is apparent from the above summary that the Draft Report's conclusions about "inappropriate" activities rest heavily on internal DIA policies dealing with alternative IC assessments and judgments, as well as Intelligence Community concepts such as "Intelligence Activities," "Intelligence Production," "Intelligence Analysis," and "intelligence assessments." An examination of the DIA policies and relevant IC concepts shows that they do not apply to the activities reviewed here. Thus the assertion that the activities were "inappropriate" cannot withstand analysis.

(U) Before turning to the analytical errors in the Draft Report, however, we respectfully point out that the specific reasons on which the Draft Report rests its finding of "inappropriateness" do not bear scrutiny.

(U) First, the Draft Report claims that the work products were inappropriate because they "did not clearly show the variance with the consensus of the Intelligence Community." This fundamentally mischaracterizes the purpose and nature of the work. The central purpose of these activities was to look critically at existing IC work and offer a different way of understanding the IC information. Each version of the draft briefing made this clear. The senior decision-makers briefed on this work (one of whom was the DCI himself) did not need to be told that it was at variance with the IC in some respects; that was inescapably obvious. There are no facts to suggest that any of them drew any conclusions or made any decisions whatsoever solely on the basis of the draft briefing, without taking IC views into consideration.[52]

(U) Furthermore, there was no requirement to specify in a draft work product, not offered as a proposed action item, how it might vary from IC views. The situation would

[52] (U) It was not the place of OUSD(P) in any event to articulate what the IC "consensus" was, which would have been the first step in "clearly show[ing] the variance" as the Draft Report asserts should have been done. It was up to the IC to articulate its consensus, if it had one. The Draft Report itself shows the pitfalls of trying to articulate an "IC consensus" for the IC. The Draft Report purports to describe such a consensus but utterly fails to mention the DCI's vetted, cleared statements to Congress on the Iraq-al-Qaida relationship. Those statements do not support the Draft Report's characterization of the IC "consensus."

have been different if the draft briefing were put forward in support of some proposed action or decision, for example, a proposal that the President make a speech to the Nation describing a relationship between Iraq and al-Qaida. In such a case, the matter would have been discussed, at the least, by the Deputies Committee. All interested agencies would have been asked to provide their views, in particular their comments on the draft briefing and any other material offered in support of or against the proposed speech. The IC would have had ample opportunity to articulate how its views did or did not vary from the draft briefing. There would have been no need for "OUSD(P)" to do that; indeed, the IC would no doubt have objected strenuously to the idea of having another agency describe how its views might vary from those depicted in the draft briefing. Obviously, nothing of the sort happened here.

(U) Second, the Draft Report asserts that the work was "inappropriate" because some of it was "shown as intelligence products." There are no facts whatsoever to support this statement. The Draft Report only gives one example, the July 25, 2002 internal staff memo (done in preparation for the draft briefing), discussed at length in Part IV above. That memo argued that the IC had sufficient information to make an intelligence finding that Iraq had been "complicit in supporting al-Qaida terrorist activities." The Draft Report mischaracterizes this memo as an "OUSD(P)" intelligence assessment. In fact it was nothing more than a staff member's opinion that the *IC* should make an intelligence finding.

(U) Third, the Draft Report considers the work reviewed inappropriate because it amounted to "intelligence functions that are the responsibility of Defense Intelligence." We explain below why the work was not "intelligence functions." But even accepting that characterization for discussion purposes only, the Draft Report in this respect contradicts its own admission that the Secretary "has the latitude to interchange roles and responsibilities" in managing the Department so long as no statutes or executive orders are violated. The Draft Report fails to explain why it was inappropriate for the Secretary and Deputy Secretary to exercise that latitude in this case. If the OIG believes the Deputy inappropriately used his latitude to assign this work to non-IC staff members, and the Secretary and Deputy misused their latitude to direct that those staff members share this work outside the Department, it is incumbent on the OIG to say so directly and to explain why it holds this opinion. It is not sufficient for the OIG simply to fault "OUSD(P)" with engaging in "inappropriate" behavior because two Policy staffers did as told by the Secretary and Deputy, and let it go at that.

B. DIA's DI Policy Nos. 004 and 005 Do Not Apply to Non-IC Offices Directed by Senior DoD Leaders to Critique Intelligence Community Work (U)

(U) The Draft Report cites Policy Nos. 004 and 005 developed by DIA's Directorate for Analysis and Production. These internal policies set out guidelines and procedures for DIA analysts who wish to propose, respectively, an alternative analysis or

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an alternative judgment when they believe that they cannot reach a consensus with other intelligence analysts on a particular issue. The Draft Report erroneously characterizes these internal DI policies as "the standard process of coordinating to obtain consensus from the Intelligence Community" that the DIA detailees to OUSD(P) should have used in this case (page 8). The Draft Report also erroneously describes these internal policies as the "existing procedures" (page 14) that OUSD(P) should use to "request that an Alternative Judgment be produced by Defense Intelligence" if OUSD(P) believes that the IC is incorrect on a given matter (page 13).

1. The Internal DIA Policies Do Not Apply to DIA Members While Detailed to Policy Positions Outside DIA's Chain of Command (U)

(U) The texts of these internal DI policies are reproduced in full at Appendix A to these comments. There is nothing in either of them to support the idea that they continue to apply to DIA analysts who are detailed to policy positions and who are tasked to do independent assessments for the express purpose of providing a non-IC critique, or review, of IC views. It is obvious from the texts that they only apply to analysts working within the DIA chain of command and proposing alternative assessments or judgments, in an intelligence capacity, within that chain of command. DI Policy No. 005, for example, provides that "the analyst forwards ... through the immediate Supervisor/Office Senior Intelligence Officer (SIO) to the Group SIO/Research Director (RD). The Supervisors/Office SIOs review ... for format and completeness. The Group SIO/RD reviews ... to ensure it accurately describes the competing analyses," etc. This process has no relevance to a situation such as the present, where the Deputy Secretary specifically directed that he wanted an alternative look at the IC's work from outside the IC and was not seeking to develop a consensus.

2. The Internal DIA Policies Contain No Procedure for an IC Customer to Obtain an Alternative IC Judgment, Which in any Case is not What the DSD Sought Here (U)

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(U) Neither of these internal DI policies contains any procedure for an IC customer, such as OUSD(P), to request an "alternative judgment" from the DIA if the customer considers an existing IC judgment to be incorrect. While the Draft Report inexplicably allows that OUSD(P) "is not ... required to await final adjudication or production of an Alternative Judgment from DIA" (page 13), thus raising the question of why the "Alternative Judgment" should be sought at all, the fact remains that these internal DI policies do not provide for a customer to make such a request. One will search the texts in vain for even the slightest hint of such a procedure.

(U) The very notion that a customer should ask the IC for an alternative intelligence judgment if it dislikes the judgment already given is bizarre on its face. Such a request would inevitably bring down a firestorm of criticism that the customer was attempting to "politicize" intelligence or "pressure" the intelligence analysts into

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changing their assessments. In any event, the Deputy Secretary in the present matter expressed no wish for an "alternative judgment" from the IC, which is undoubtedly why the staffers responding to his tasking did not seek one. And he expressly directed that the objective of the work was not to develop a consensus product but rather to see how competing arguments might stand up in an exchange of views with the IC.

3. The Internal DIA Policies Were Not Coordinated or Published as Would Have Been Required if Intended to Apply Outside DIA (U)

(U) There is no basis for asserting that the DI internal policies are applicable to DoD as a whole or to OUSD(P) in particular. To the contrary, these policies have not been published; they have not been disseminated to OUSD(P) or, so far as we know, elsewhere in the Department outside DIA; and they have not been presented to OUSD(P) for review or coordination. Page 14 Revised

(U) Guidance that is intended to have Departmental applicability falls within the requirements of DoD Directive No. 5025.1, "DoD Directives System," July 27, 2000, as reissued July 14, 2004. Section 4.1 of this directive articulates a DoD policy to maintain "a single, streamlined, uniform system governing the preparation, coordination, approval, publication, dissemination, implementation, and internal review of DoD issuances...." Proposed DoD issuances "shall be formally coordinated to solicit the views of the Heads of the DoD Components" (Section 4.4). All DoD issuances "must be coordinated with the General Counsel, DoD, the Inspector General, DoD, and the Director of Administration and Management" (Section 4.4.1). The Heads of DoD Components "shall review and coordinate on proposed DoD issuances relevant to their missions" (Section 5.4).

(U) Nothing of the sort was done with regard to DI Policy Nos. 004 and 005. They have no applicability to OUSD(P). They are not "existing procedures" that OUSD(P) should have, or could have, followed in the present matter. The Draft Report's recommendation that they be followed as "existing procedures" in the future is unfounded and inappropriate.

C. "Intelligence Activities" Constitute a Process Using All Key Elements of Intelligence Work By Intelligence Agencies (U)

(U) As the guidance cited by the Draft Report (page 4-5, Appendix H) and other relevant authorities make clear, "Intelligence Activities" involve the entire process by which intelligence agencies turn information into a product that intelligence consumers can use. They do not encompass the type of work reviewed here.

(U) In asserting otherwise, the Report relies primarily on DoD Directive No. 5240.1, "DoD Intelligence Activities, April 25, 1988, and DoD Directive No. 5105.21, "Defense Intelligence Agency (DIA)," February 18, 1997. Of these, only DoD Directive

No. 5240.1 (Section 3.1) contains a definition of "Intelligence Activities" which is as follows:

> "Intelligence activities. The collection, production, and dissemination of foreign intelligence and counterintelligence by DoD intelligence components authorized under reference (b)."

(U) "Reference (b)" is Executive Order 12333, "United States Intelligence Activities," December 4, 1981, Section 3.4(e) of which defines "intelligence activities" as "all activities that agencies within the Intelligence Community are authorized to conduct pursuant to this Order." Section 3.4(f) defines "Intelligence Community and agencies within the Intelligence Community" as "the following agencies or organizations," among which the Office of the Secretary of Defense and the Office of the Under Secretary of Defense do not appear.

(U) DoD Directive No. 5240.1, Section 3.4, similarly defines "DoD intelligence components" as "[a]ll DoD Components conducting intelligence activities, including" a list of named DoD elements among which, again, the Office of the Secretary of Defense and the Office of the Under Secretary of Defense do not appear. In contrast Section 2.1 of DoD Directive No. 5240.1 does define "DoD Components" to include the Office of the Secretary of Defense. Thus the Directive carefully distinguishes "all DoD Components" from "DoD Components conducting intelligence activities." In consequence, the Directive's Section 3.1 definition of "Intelligence Activities" by its terms only encompasses "DoD intelligence components," not "all DoD Components."

(U) The above definitions make clear that "Intelligence Activities" constitute a process that entails collection, production "and" (not "or") dissemination of foreign intelligence or counterintelligence *as conducted by intelligence agencies,* and not assessments or critiques by non-intelligence offices.

(U) Various definitions in Joint Publication 1-02, *Department of Defense Dictionary of Military and Associated Terms* (12 April 2001, as amended through 16 October 2006) ("JP 1-02") also demonstrate that the term "Intelligence Activities" should be understood as a process of actions and operations conducted by the Intelligence Community to produce an intelligence product for consumers. For example, according to JP 1-02:

> "intelligence" means "[t]he product resulting from the collection, processing, integration, analysis, evaluation, and interpretation of available information concerning foreign countries or areas" (JP1-02 at 268);
>
> "intelligence process" means "[t]he process by which information is converted into intelligence and made available to users. The process consists of six

interrelated intelligence operations: planning and direction, collection, processing and exploitation, analysis and production, dissemination and integration, and evaluation and feedback" (JP 1-02 at 270); and

"intelligence community" means "[a]ll departments or agencies of a government that are concerned with intelligence activity, either in an oversight, managerial, support, or participatory role" (JP 1-02 at 269).

(U) None of the above definitions accurately describe the critical assessment of IC information by OSD staff members that is the subject of this review.

D. Alternative or Critical Assessments of IC Information and IC Judgments by Non-IC Offices Are Not "Intelligence Activities" (U)

(U) As the above definitions of "Intelligence Activities" and related terms make clear, such activities consist of the entire process of actions and operations conducted by intelligence agencies to produce an intelligence product for consumers. It is incorrect to select one or a few activities that are part of the "intelligence process" and characterize those selected activities as "Intelligence Activities" even when conducted by non-IC policy elements of government.

(U) The definitions of "Intelligence Activities" and related terms do not encompass an alternative or critical analysis, evaluation, interpretation or assessment by a non-IC office, such as OSD or OUSD(P), of information provided by the Intelligence Community. In this context, the "analysis," etc. is merely an independent review by a non-IC organization, or in the present case by several non-IC OSD staffers, of IC information provided by the IC. In conducting this review, the non-IC organization may even exercise independent judgment about the meaning or significance of the intelligence information provided by the IC. This act of independent judgment by the non-IC organization does not constitute "Intelligence Activities" under any of the above definitions or any common-sense understanding.

(U) The mere fact that the "intelligence process" conducted by the Intelligence Community includes but is not limited to "analysis" and "dissemination" does not mean that a policy organization is conducting "Intelligence Activities" if it independently "analyses" intelligence information provided by the IC and then "disseminates" the results of its analysis. To assert such a proposition is akin to asserting that "cows have four legs and give milk, therefore, all four-legged animals that give milk are cows."

(U) The Draft Report cites the definition of "Intelligence Production" found in DoD Directive No. 5105.21 in an effort to characterize OUSD(P) activities as "Intelligence Activities." But the actual definition does not support this argument.

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(U) The term "Intelligence Production" as defined in Directive No. 5105.21 does not apply to any activities under review here. Paragraph E2.1.3 of the Directive provides:

> "Intelligence Production. The validation, correlation, analysis, and interpretation of information on foreign intelligence and counterintelligence topics, including the use of automated data bases and the presentation and dissemination of the results."

This definition, just as the related definitions discussed above, makes clear that "Intelligence Production" is the full process of validation, correlation, analysis, interpretation, presentation and dissemination. It is a distortion of the definition to assert that a single activity, such as analysis or interpretation, constitutes "Intelligence Production."

(U) In the present matter, the draft briefing and work done to prepare it were nothing more than a critical review of intelligence information already produced by the IC. The work presented a fresh assessment of how that information might be understood if certain *a priori* assumptions about lack of cooperation between secularists and fundamentalists were avoided. At the very least the work under review involved no validation or correlation, as those tasks had already been done by the IC as part of its "Intelligence Production." The attempt to stretch the definition of "Intelligence Production" to include the critique of IC reports and products by a non-IC office simply does not work.

E. OUSD(P) Did Not Produce or Disseminate "Intelligence Assessments" or "Intelligence Analysis" (U)

Page 6

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(U) The Draft Report asserts (e.g., page 4) that the draft briefing on the relationship between Iraq and al-Qaida and the July 25, 2002 memo preliminary to the briefing were "OUSD(P)" "alternative intelligence assessments," and that this work "evolved into Intelligence Analysis" (page 12). The work reviewed was not "intelligence assessments" or "Intelligence Analysis" under any reasonable understanding of those terms.

(U) Neither the Draft Report, nor any of the authorities mentioned there or here, defines the term "intelligence assessment." Nor do they define the term "Intelligence Analysis" despite the Draft Report's use of capital letters. But extrapolating from the intelligence-related definitions discussed above, it seems reasonable to suggest that "intelligence assessments" and "Intelligence Analysis" are assessments and analysis by intelligence agencies about the meaning and significance of information acquired by them during the six-part "intelligence process" of "planning and direction, collection, processing and exploitation, analysis and production, dissemination and integration, and evaluation and feedback" (JP 1-02 at 270). It follows that "intelligence assessments" and "Intelligence Analysis" are disseminated by intelligence agencies and are clearly

identified as the "assessment" or "analysis" of the issuing agency or intelligence community. Thus, intelligence consumers will know that they have the "assessment" or "analysis" of that agency or community on the matter at hand as opposed to someone else's assessment or analysis.

(U) Nothing of this sort took place in preparing and presenting the draft briefing in question. As Part IV (Facts) above explains in detail, the July 25, 2002 memo was an internal document done in preparation for a briefing that the Deputy Secretary had directed his Special Assistant and two DIA detailees working in the Policy organization to put together for the Secretary of Defense. The memo did not present any "intelligence assessment" or "intelligence finding" or anything that could reasonably be characterized in that way. The memo did argue that there was a case to support an "Intelligence Finding" that Iraq had been complicit in supporting al-Qaida terrorist activities. But this obviously was a suggestion that the Intelligence Community should make such an "Intelligence Finding," since neither the memo's author nor OUSD(P), the Deputy Secretary or the Secretary were capable of making an "Intelligence Finding."

(U) As Part IV above also explains, the draft briefing likewise contained no "intelligence assessments," "Intelligence Analysis" or anything that could reasonably be so described. Each version of the draft briefing was marked as "draft" or "draft working papers." Each time the briefing was given, it was well known to all in attendance that the briefers were not speaking for the Intelligence Community but, to the contrary, were presenting an alternative or critical analysis of information provided by the Intelligence Community. The analysis intentionally took a different approach from some of the IC analysis, because of the Deputy Secretary's direction to avoid the *a priori* assumption that secular Baathists and Islamic fundamentalists would never cooperate and to examine how the intelligence information might be understood in the absence of that assumption. It would be preposterous to suggest that the draft briefing was an effort to usurp the role of the IC, or that anyone was misled into believing that the draft briefing purported to express "intelligence assessments" or "Intelligence Analysis" on behalf of the IC or anyone else.

(U) Moreover, whatever the July 25, 2002 memo and the draft briefing may have been, they most certainly were not "OUSD(P)" assessments or conclusions, as the Draft Report repeatedly asserts. As Part IV (Facts) discusses in detail, these work products were never described or presented as an approved OUSD(P) or OSD position, all versions of the briefing were marked "draft" or "draft working papers," the USDP introduced the draft briefing to the DCI stating that it was merely one way of looking at the underlying intelligence and not necessarily the correct way, and the draft briefing itself was done at the Deputy Secretary's direction. The draft briefing and work leading to it were not initiated by "OUSD(P)," notwithstanding that two of the three authors happened at the time to be working in the Policy organization on detail from DIA.

(U) The Draft Report seems to argue that the two DIA detailees continued to function as intelligence analysts even though detailed to OUSD(P) and therefore their activities in OUSD(P) "constituted intelligence analysis and in at least several cases, intelligence production, which was not one of USD(P)'s specified functions in DoD Directive 5111.1" (page 6). This contention cannot withstand scrutiny. If it were correct, OSUD(P) could never obtain intelligence analysts on detail from DIA without committing "inappropriate" "Intelligence Activities." How to characterize work done by detailees depends on the substance of what they actually do while detailees, not on the nature of their duties in their home agencies. As demonstrated above, the work in question here did not fall within any of the definitions of "Intelligence Activities" and did not constitute "intelligence analysis."

(U) The Draft Report also seeks to support its claim that OUSD(P) produced "alternative intelligence assessments" by referring to "confirmation" in interviews that the DIA detailees "conducted independent intelligence analysis resulting in analytic conclusions and products" (page 6). According to the contemporaneous written record, however, at least one of the DIA detailees said that "[a]t no point did I prepare an intelligence estimate or publish anything I had written" during her involvement in the work under review. In any event, the terminology that individuals in informal interviews may have used or acquiesced to, advertently or inadvertently, cannot alter the nature of the work they actually did or did not do. In this case they did not produce or disseminate "intelligence assessments" or "Intelligence Analysis" on behalf of OUSD(P) or anyone else.

F. The Relevant Orders and Directives Describe Intelligence Roles and Activities, They Do Not Proscribe Policy Activities (U)

(U) The Report refers to definitions from DoD guidance dealing with intelligence agencies and intelligence activities. It endeavors to apply these definitions to policy activities undertaken for policy purposes within OSD. In so doing, the Draft Report transforms these definitions into restrictions on what policy offices may appropriately do.

(U) There is no authority to support the view that definitions describing the activities of intelligence agencies also apply to policy offices, or constitute limitations or prohibitions on the activities that policy offices may appropriately conduct. To demonstrate the fallacy of that thinking, one need only return to the relevant definitions.

(U) As discussed above, DoD Directive No. 5240.1 (Section 3.1) defines "Intelligence Activities" as:

> "The collection, production, and dissemination of foreign intelligence and counterintelligence by DoD intelligence components authorized under [Executive Order 12333]."

(U) Executive Order 12333, "United States Intelligence Activities," December 4, 1981, Section 3.4(e), defines "intelligence activities" as "all activities that agencies within the Intelligence Community are authorized to conduct pursuant to this Order." Section 3.4(f) defines "Intelligence Community and agencies within the Intelligence Community" as "the following agencies or organizations," among which, as noted above, OSD and OUSD(P) do not appear.

(U) DoD Directive No. 5240.1, Section 3.4, similarly defines "DoD intelligence components" as "[a]ll DoD Components conducting intelligence activities, including" a list of named DoD elements among which, again as noted above, OSD and OUSD(P) do not appear. But Section 2.1 of DoD Directive No. 5240.1 does define "DoD Components" to include the Office of the Secretary of Defense. Thus, as also noted above, the Directive distinguishes "all DoD Components" from "DoD Components conducting intelligence activities." In consequence, the Directive's Section 3.1 definition of "Intelligence Activities" by its terms only encompasses "DoD intelligence components," not "all DoD Components," as discussed above.

(U) The above definitions make two things clear about "Intelligence Activities":

1. They constitute a process that entails collection, production "and" (not "or") dissemination of foreign intelligence or counterintelligence, and

2. They are activities *conducted by intelligence agencies*, and not policy or other assessments or critiques by non-intelligence offices, even if these activities have similarities with "intelligence activities" performed by intelligence "agencies" or "components."

(U) The Draft Report in effect expands the definition of "Intelligence Activities" contained in Directive 5240.1, Section 3.1, by dropping the restrictive clause "by DoD intelligence components authorized under [E. O. 12333]." In other words, by asserting that OUSD(P) (admittedly not a "DoD intelligence component") engaged in "Intelligence Activities," the Draft Report obviously regards those activities as something that *can* be done by an entity that is not an "intelligence component." The Draft Report thus appears to define "Intelligence Activities" as "the collection, production, and dissemination of foreign intelligence and counterintelligence" simply, regardless of by whom or what.

(U) This re-definition not only is incorrect on its face but in practice would lead to absurd results, as reference to the definition of "foreign intelligence" demonstrates. The term "foreign intelligence" appears in the definition of "Intelligence Activities," i.e., the "collection, production, and dissemination of foreign intelligence and counterintelligence by DoD intelligence components authorized under" E.O. 12333. Both E.O. 12333 (Section 3.4(d)) and DoD Directive 5240.1 (Section 3.2) define "Foreign intelligence" as "information relating to the capabilities, intentions and activities of foreign powers,

organizations or persons, but not including counterintelligence except for information on international terrorist activities."

(U) This definition of "foreign intelligence" is quite broad. The *New York Times*, for example, routinely engages in the collection (gathering and reporting), production (writing and editing) and dissemination (publication) of information relating to the "capabilities, intentions and activities of foreign powers, organizations or persons." In the same vein, State Department Foreign Service officers, stationed both abroad and in Washington, constantly, through their contacts with foreign officials and others, learn about the "capabilities, intentions, and activities of foreign powers, organizations, or persons"; they report this information, which is used by the regional and other bureaus of the State Department to produce memoranda containing assessments and policy recommendations, which, in turn, are disseminated to officials throughout the government. Thus, if one were to accept the Draft Report's modification of the definition of "intelligence activities," one would have to conclude that the *New York Times* and State Department Foreign Service officers routinely engage in "intelligence activities."

(U) Similarly, OUSD(P) routinely deals with "information relating to the capabilities, intentions, and activities of foreign powers, organizations, or persons." For example:

- (U) Policy personnel routinely meet with foreign counterparts, at both the leadership and desk officer levels. These encounters occur at international meetings and conferences, formal defense bi-lateral consultations, and formal or informal one-on-one meetings. During such meetings, policy personnel acquire "foreign intelligence" information which is typically recorded in Memoranda for the Record, e-mails, etc.

- (U) In addition, policy personnel seek out other sources of information about "the capabilities, intentions, and activities of foreign powers, organizations, or persons," for example, by attending academic or other conferences, or by talking to knowledgeable academics or other non-government experts on relevant subjects.

- (U) On the basis of this information and other sources (including "open source" intelligence, diplomatic reporting, as well as intelligence reports), Policy personnel prepare memoranda containing their analyses of foreign situations and associated policy recommendations. Almost all the work of regional offices, and much of the work of functional offices, deals with "the capabilities, intentions, and activities of foreign powers, organizations, or persons."

- (U) These memoranda are disseminated within OUSD(P), to the Joint Staff and other DoD components, to the Defense Department leadership and to interagency colleagues.

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(U) If this and similar activity were to be considered "Intelligence Activities," then attempting to follow the Draft Report's recommendation that "internal controls" be established to ensure that "Intelligence Activities" are not performed within OUSD(P) would be tantamount to shutting down OUSD(P) altogether.

(U) In fact, the guidance and authorities discussed here and in the Draft Report impose no restrictions on activities involving analyses, evaluations, assessments, critical reviews, or even alternative judgments by non-IC offices, not even if the subject of such analyses, etc. is intelligence reporting or intelligence products furnished by the IC, nor even if such analyses, etc. lead to judgments about intelligence information furnished by the IC that differ from the IC's judgments about the same information.

(U) Where the relevant guidance intends to prohibit or regulate activities by non-IC offices, it does so in clear terms, and in only two instances: the prohibition on engaging or conspiring to engage in assassination (E.O. 12333, Section 2.11; DoD Directive No. 5240.1, Section 4.4); and the prohibition on all DoD Components from conducting or providing support for the conduct of special activities except as the Directive otherwise provides (DoD Directive No. 5240.1 Section 4.3). Other than these two cases, the relevant guidance does not proscribe any activities by non-IC offices. In particular it lacks any limitation on analyses or assessments by Policy offices of Intelligence Community information and products. There is no basis for characterizing the admittedly lawful and authorized work under review as "inappropriate."

VI. OUSD(P) NONCONCURRENCE (U)

A. With the Findings of the Draft Report (U)

(U) For all the reasons stated in these comments, OUSD(P) does not concur in any finding expressed in the Draft Report except the finding that the activities reviewed were lawful and authorized, and specifically **does not concur** in incorrect assertions (e.g., at pages 4 and 14): Page 15

- (U) That OUSD(P) "developed, produced and then disseminated alternative intelligence assessments on the Iraq and al-Qaida relationship, which were inconsistent with the consensus of the Intelligence Community, to senior decision-makers";
- (U) That the actions reviewed were allegedly "OUSD(P)" activities;
- (U) That the actions reviewed were allegedly "inappropriate given that the products did not clearly show the variance with the consensus of the Intelligence Community and were, in some cases, shown as intelligence products";

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- (U) That there was an alleged "expanded role and mission of the OUSD(P) from Defense Policy formulation to alternative intelligence analysis and dissemination";
- (U) That anything inappropriate occurred because "OUSD(P) lacked the management controls to ensure that Intelligence Activities were not performed, and that when Policy disagreed with the Intelligence Community, products produced by Policy clearly showed the variance with the Intelligence Community";
- (U) That OUSD(P) had a responsibility to, but "did not provide 'the most accurate analysis of intelligence' to senior decision-makers"; and
- (U) That any OUSD(P) activities, in response to requests by the Deputy Secretary, the Secretary of Defense or otherwise, constituted "Intelligence Activities."

B. With the Recommendations of the Draft Report (U)

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(U) For all the reasons stated in these comments, OUSD(P) does not concur in any recommendation expressed in the Draft Report, and specifically **does not concur** in the recommendations (page 14) that the Under Secretary of Defense for Policy:

"a. Establish internal controls so that 'Intelligence Activities' are not performed within the Office of the Under Secretary of Defense for Policy" – as OUSD(P) did not perform any "Intelligence Activities" and no such "internal controls" are needed.

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"b. If in its policy formulation role, there is disagreement with the Intelligence Community consensus:

"(1.) Use existing procedures within the Intelligence Community to request an Alternative Judgment" – as existing IC procedures for producing "alternative judgments" do not apply to non-IC offices and are irrelevant to critiques by policy offices of IC work.

"(2.) Clearly articulate in policy products the Intelligence Community consensus and the basis for disagreement or variance from the Intelligence Community consensus" – as such a requirement would inappropriately constrain policy work by requiring policy offices to vet every policy product with the IC in order to determine whether or not it disagreed or varied with an IC "consensus" and – if it did -- to articulate the IC "consensus" in the policy product.

(U) Accordingly, OUSD(P) has taken no actions, and plans none, in response to the proposed recommendations.

VII. CONCLUSION (U)

(U) Bipartisan reports and studies by various commissions and congressional committees since the 9/11 attacks have stressed the need for hard questions and alternative thinking on the part of the Intelligence and Policy Communities alike. The motivation behind such observations has been a broadly held consensus that the Intelligence Community suffered major failures in its assessments of several key threats and issues before both the 9/11 attacks and the recent Iraq war. As the WMD Commission wrote, to quote just one such report:

> "We conclude that good-faith efforts by intelligence consumers to understand the bases for analytic judgments ... are entirely legitimate. This is the case even if policymakers raise questions because they do not like the conclusions or are seeking evidence to support policy preferences. Those who must use intelligence are entitled to insist that they be fully informed as to both the evidence and the analysis."[53]

(U) The conclusions in the Draft Report reflect a disturbing departure from the trend in all these reports and studies to encourage the type of alternative thinking that motivated the work reviewed in this Project. By mischaracterizing that work as inappropriate "intelligence assessments," the Draft Report fundamentally misinterprets what the work actually was – namely, a critical assessment by OSD, for policy purposes, of IC reporting and finished IC products on contacts between Iraq and al-Qaida. Such conclusions, if sustained, would have a dampening effect on future initiatives challenging intelligence assessments. The facts do not justify such conclusions.

(U) The work found "inappropriate" was an exercise in alternative thinking that the second most senior civilian in this Department directed his subordinates to prepare and brief to the most senior official of this Department. The latter, after receiving the draft briefing, directed that it be shared with the DCI. When the Deputy National Security Advisor requested the briefing, the Deputy Secretary's office directed that it be given to him. These are the activities that the Draft Report characterizes as "inappropriate," because it considers them to be "production" and "dissemination" of an "alternative intelligence assessment" contradicting assessments of the "chartered-intelligence community." If the OIG actually believes that it was inappropriate for the Deputy Secretary of Defense to have some non-IC OSD staff members do a critical assessment of some IC work on a subject of major significance for national security, inappropriate for the Secretary of Defense to share the OSD work with the DCI, and inappropriate for the Deputy Secretary to share the work with the Deputy National Security Advisor when requested by the latter, the OIG should say so directly instead of

[53] (U) *Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction. Report to the President of the United States* (31 March 2005), p. 189.

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finding fault with subordinate OSD offices and staff members who did as they were instructed to do.

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(U) The proposed recommendations would put a straightjacket on not only the type of work reviewed here but also the large majority of work routinely done in OSD, particularly in OUSD(P).

- (U) By having OUSD(P) to articulate the Intelligence Community consensus in any policy products that may vary from an IC "consensus" and the basis for such variance, the proposed recommendations would inappropriately constrain policy work. They would require policy offices to vet every policy recommendation or analysis with the IC in order to determine whether or not it disagreed or varied with an IC "consensus." The proposed recommendations would also burden policy offices with a requirement to articulate the IC "consensus" when the IC itself should do so.

- (U) By having OUSD(P) to seek an "Alternative Judgment" from the IC whenever any OUSD(P) product disagreed with IC views, the proposed recommendations would seriously constrain and deter OUSD(P) personnel from articulating alternative views about the same information on which the IC's assessments were based.

- (U) By mischaracterizing alternative reviews of IC work as "Intelligence Activities," the conclusions of the Draft Report would chill the vigorous debate and hard questioning that most observers have recognized as necessary to avoid the types of intelligence failures experienced in the recent past.

(U) We strongly urge a reconsideration and major revision of the Draft Report and the conclusions expressed therein.

Eric S. Edelman
Under Secretary of Defense for Policy

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APPENDIX A: DI POLICY NOS. 004 AND 005

Directorate for Analysis and Production

Policy Statement

DI Policy No: 004 - Date: 13 July 2001

Subject: Alternative Analysis Policy

1. To remain relevant, intelligence analysis must present clear conclusions that are actionable by the customer. To be comprehensive, intelligence analysis must bring to bear the best collaborative effort of the broadest set of expertise. These competing imperatives pose a dynamic, continuing challenge to intelligence analysis.

2. The normal process of coordination demands that analysts work with others possessing relevant expertise to develop consensus analysis. Often, this process produces compromises employing such techniques as numerical ranges (10-30 missiles) or ambiguous word choices (possible, probable, may, could). Where compromises represent simple shades of difference, this outcome is acceptable; where they mask genuine analytic alternatives, they do the customer a disservice.

3. This alternative analysis policy encourages analysts to avoid those compromises which pass analytic uncertainty along to the customer in the guise of authoritative analysis. Analysts must clearly-and concisely-present what they know, what they do not know (and therefore assume), and then what they think (analysis). Genuine analytic differences, based on different evidence, assumptions, or methodologies, must be brought to the customer's attention in a plain and succinct manner. Our customers understand that our work is fraught with uncertainty, and they appreciate our nuanced attempts to explain what our differences are, and why they occur. Analysts are encouraged to resolve analytic differences by presenting alternative analysis within their products.

4. The need to promote sound alternative analysis does not absolve the analyst from the requirement to collaborate. Rather, it frees the analyst from the need to resort to compromise just to reach a conclusion.

///SIGNED///
CARYN A. WAGNER
Deputy Director for
Analysis and
Production

http://www.dia.ic.gov/admin/di/policies/policy/004.html 12/22/2006

Directorate for Analysis and Production

Policy Statement

DI Policy No: 005 - Date: 05 June, 2001

SUBJECT: Alternative Judgments Policy

1. Curiosity and integrity are the hallmarks of good analysis. The best analysts constantly strive to explain the apparently inexplicable, while submitting their work to the rigorous scrutiny of their peers. The principal goal of intelligence analysis is to provide our customers with the most expert, fused, and multi-disciplinary judgements possible. Intellectual honesty and analytic rigor require processes that enable the analyst to present ideas and concepts which run counter to the prevailing wisdom or challenge the consensus. This policy memo establishes a process for promulgating alternative judgments, consonant with the rights and responsibilities of all analysts in their obligation to provide the best possible analysis.

2. The first and preferred method for incorporating an analytic alternative is through the standard process of coordination. Analysts are expected to marshal their facts, build coherent arguments, and defend those arguments while coordinating with other experts across the Intelligence Community. In the vast majority of cases, analytic judgments either stand or fall on the merits of their evidentiary base, intrinsic logic and quality. In those rare instances where analysts build a strong case, but cannot achieve consensus support for their analysis, an alternative judgment is justified.

3. Even with the existing venues for collaboration, there remain opportunities for the exclusion of analytic alternatives. Due to bureaucratic realities, the demands of time-sensitive taskings, or the unwillingness to accept contrary opinions, sound alternative judgments may be lost to the customer. To ensure there is an institutional court-of-last-resort for such analysis, this policy memo establishes the following procedure for raising alternative analytic judgments and giving them due consideration:

- Analysts who have presented analytic judgments through normal coordination, but whose judgments have been rebuffed, can produce an Alternative Judgment (AJ) to inform the senior leadership. The purpose of the AJ is to provide visibility to the senior leadership of an alternative judgment. Analysts who produce an AJ do so secure in the knowledge that they have improved the prevailing analysis and reinforced the collaborative process.

- The analyst has several responsibilities in the decision to produce an AJ. First the analyst must permit the coordination process to play out; an AJ may not be used to circumvent normal coordination. Second, the AJ must dispassionately (and succinctly) explain both the prevailing judgment and the alternative, without prejudice to the former. Finally, the analyst must display trust in the senior leadership, both to give submitted AJs due consideration for further dissemination, and to protect the analyst's best interests once they have produced an AJ.

- The AJ must adhere to the stated format (Enclosure 1). This format forces the analyst to focus on the substance of the prevailing and alternative judgments, while avoiding the emotional or

bureaucratic conditions which engendered the need for an AJ in the first place. In the end, the AJ is all about the analysis. Upon completing the AJ, the analyst forwards it through the immediate Supervisor/Office Senior Intelligence Officer (SIO) to the Group SIO/Research Director (RD). The Supervisor/Office SIOs review the AJ for format and completeness. The Group SIO/RD reviews the AJ to ensure it accurately describes the competing analyses.

- The Group SIO/RD then determines whether to: (1) present the AJ to the Directorate's Senior Analytic Review Board (SARB), or (2) return the AJ as not warranting further dissemination due to insufficient, non-responsive, or unsubstantiated analysis. In the event the Group SIO/RD rejects the AJ, he/she will return it to the analyst providing written explanation for the rejection; he/she will also provide a copy of the AJ and the basis for the rejection to the Directorate Research Director (DI-RD).

- The DI-RD will convene a panel of the Group SIOs/RDs to consider an AJ selected for presentation by the appropriate Group SIO/RD. The SARB will determine whether to (1) return the AJ (due to insufficiency, as above) to the originating analyst, or (2) ratify the AJ for inclusion in all appropriate products. The SARB will work in an expedited manner in order for the AJ to be included in products already in draft. The SARB will recommend a means of dissemination to the DI, who will be the final authority on how an AJ is promulgated.

4. The desired outcome of this alternative judgment process is to produce the highest quality intelligence, while ensuring that critical alternative judgments are considered. The normal collaborative process should resolve most analytic differences well before the creation of an AJ. The specific nature of the AJ format is designed to provide discipline to the process, while providing the senior leadership sufficient information to make an informed decision on the merits of the alternatives. The use of the SIOs/RDs as principal reviewers, and the oversight of the DI-RD, invigorate the senior analytic leadership in the process, while in no way replacing or circumventing the established role of the chain-of-command. The analyst retains the right to submit alternative judgments, reinforced by the knowledge of an established process to ensure fundamental fairness. All of these intended outcomes combine toward the ultimate goal of encouraging analytic rigor.

///SIGNED///
CARYN A. WAGNER
Deputy Director for
Analysis and
Production

Final Report Reference

APPENDIX B: COMMENTS ON OIG'S ANSWERS TO SENATOR LEVIN

(U) Q. 1. As explained in our comments, it is incorrect to attribute the briefing in question to "the OUSD(P)." It is also incorrect to characterize it as an "intelligence analysis."

(U) Q. 2. The Draft Report ignores the October 2002 letter from DCI Tenet to Chairman Graham of the Senate Select Committee on Intelligence and other DCI statements to Congress, as discussed in our comments. The Draft Report hence cannot, and should not purport to, judge the extent to which the IC views as expressed in that letter (which says, *inter alia*, that "we have solid reporting of senior level contacts between Iraq and al-Qa'ida going back a decade" and "credible information indicates that Iraq and al-Qa'ida have discussed safe haven and reciprocal non-aggression") were or were not compatible with the view that there was a "mature, symbiotic" relationship between Iraq and al-Qa'ida." (Note that the briefing speaks of a "mature, symbiotic *relationship*" and not of the "'mature, symbiotic' *cooperation*" attributed to it in this answer (emphasis supplied).)

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- (U) It is misleading to say, in the second paragraph of this answer, that the CIA "later dismissed the alleged" Atta meeting, as if the CIA's later view rather than its contemporaneous view is relevant to this question. During the relevant period in 2002, the CIA never went so far as to "dismiss" the alleged meeting.
- (U) The final sentence of the second paragraph of this answer ("Within the OUSD(P), however, the different conclusions [i.e., the alleged "higher degree of cooperation"] were 'entirely favored' over the Intelligence Community's views") has no basis within the Draft Report or otherwise.
- (U) It is misleading, in the third paragraph of this answer, to quote the August 2002 CIA report stating that the CIA "could not document any joint operational activity between Iraq and al-Qaida." None of the work under review asserted that there had been any such activity.

(U) Q. 3. The Draft Report contains no analysis of the "underlying intelligence." Thus, the assertion that the "alternative intelligence analysis that OUSD(P) produced" was only partially supported by it is itself not supported.

- (U) There is no basis for asserting that the view that there was a "mature, symbiotic relationship" between Iraq and al-Qa'ida "was based primarily on the alleged 8-9 April 2001 meeting in Prague between Mohammed Atta and al-Ani." In fact, that view was based on a series of intelligence reports.

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- (S/NF) The Draft Report's answer to this question [redacted] can have no bearing on whether statements made in 2002 were or were not supported by the (then available) underlying intelligence.

(U) Q. 6. It is misleading to describe the briefing to the Deputy Assistant to the President for National Security Affairs (which the Vice President's Chief of Staff attended, at least in part) as a "briefing to the Office of the Vice President." It is tendentious to describe the Atta slide as "previously unseen," as the slide did not previously exist. It is incorrect to assert, as this answer does, that this new slide presented the alleged Atta meeting "as fact" (page 27). Nowhere does the slide describe the meeting as "fact." To the contrary, the slide repeatedly uses phrases such as "Czech service reports that Atta visited ...," "despite press reports of conflicting information, Czech Interior Minister ... stands by previous Czech ... reporting," "Atta reportedly held meetings...," and "Atta reportedly arrives in Prague...." Page 30 Revised

(U) Q. 7. There is no evidence that the authors of the Draft Report reviewed the available intelligence on the relevant issues. Thus, it would appear that they are not in a position to assert that the briefing in question was or was not supported by it.

- (U) It is incorrect to say that the differences between the three versions "altered the overall message presented to each audience." The Draft Report does not discuss the "overall message" of each version of the briefing and does not analyze how the "overall message" of one version relates to the "overall message" of another version. Page 31 Revised

(U) Q. 8. The Draft Report endorses the questioner's view that the "fundamental problems" slide "undercut" the IC. The Draft Report provides no evidence that the IC was in fact "undercut" or harmed in any way[54], no explanation how this would have happened, or what effects it might have had, if any. The implication is that the IC may not be criticized at all.

(U) Q. 9. The Draft Report's affirmative answer to this question is not supported by the evidence provided, which nowhere reviews the "available intelligence."

- The Draft Report does not compare the briefing's statements with the statements by DCI Tenet in his October 7, 2002, letter to Senator Graham and other statements to Congress. For example, DCI Tenet said that "We have solid reporting of senior level contacts between Iraq and al-Qaida going back a decade."

[54] (U) The relevant dictionary definition of "undercut" is "to undermine or destroy the force, value or effectiveness of" (Webster's *Ninth New Collegiate Dictionary*).

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b(3)

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Deleted	(U) Q. 10. The last sentence of the first paragraph of this answer ("The CIA was not given advance notice or an opportunity to respond to the critique because the OSD considered it an internal OSD product") implies that somehow the OSD view was questionable or incorrect. However, the product indisputably was an internal OSD product, and there is no reason why CIA should have been informed of it, any more than OUSD(P) was informed of the DIA memos of August 9 and 14, 2002, discussed on page 9 of this Draft Report.
	52 ~~SECRET//NOFORN~~

TAB B

UNCLASSIFIED

SECURITY AND DECLASSIFICATION REVIEW BY OUSD(P) OF

20 DECEMBER 2006 DRAFT OF A PROPOSED REPORT BY THE DOD OFFICE OF INSPECTOR GENERAL

REVIEW OF PRE-IRAQI WAR ACTIVITIES OF THE OFFICE OF THE UNDER SECRETARY OF DEFENSE FOR POLICY (U)

PROJECT NO. D2006DINT01-0077.000[1]

January 16, 2007

In response to the OIG's request that OUSD(P) conduct a security review of the above Draft Report as well as a declassification review of the information presented, below are OUSD(P)'s recommendations with respect to information that originated outside of OUSD(P). Information for which OUSD(P) is the Original Classification Authority has been declassified by the Under Secretary of Defense for Policy (USDP), as indicated below:

p. 2, paras. 1, 2, 3, 4 and 5: declassified by USDP

p. 3, para. 1: declassified by USDP

p. 5, para. 3: declassified by USDP

p. 6, paras. 1, 2 and 3: declassified by USDP

p. 6, para. 4: declassify only with IC concurrence

p.7, paras. 1, 2, 3 and 4: declassify only with IC concurrence

p. 8, para. 3: declassified by USDP

p. 9, para. 1: declassify only with IC concurrence

p. 9, para. 3: declassifyied by USDP

p. 10, paras. 1, 2 and 3: declassify only with IC concurrence

[1] Paragraph numbers refer to *full* paragraphs in the Draft Report. Thus, p. 10, para. 1 refers to the first full paragraph on page 10, not to the concluding part of the paragraph that began on the bottom of page 9.

UNCLASSIFIED

UNCLASSIFIED

p. 12, para. 2: declassify only with DSD concurrence

p. 12, paras. 3, 4 and 5: declassified by USDP

p. 25, para. 6: declassify only with IC concurrence

p. 26, paras. 2 and 4: declassify only with IC concurrence

p. 29, para. 3: declassify only with IC concurrence

p. 30, para. 3: declassified by USDP

p. 30, paras. 4 and 5: declassify only with IC concurrence

p. 31, para. 1: declassify only with IC concurrence

Defense Intelligence Agency (U)

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DEFENSE INTELLIGENCE AGENCY

WASHINGTON, D.C. 20340-5100

JAN 19 2007

S-0017/DR

To: Office of the Deputy Inspector General for Intelligence
Inspector General of the Department of Defense
400 Army Navy Drive, Room 703
Arlington, VA 22202-4704

Subject: (U) Pre-Iraq War Activities of the Office of the Under Secretary of Defense for Policy

Reference: (U) DoD IG Draft Proposed Report, Review of Pre-Iraq War Activities of the Office of the Under Secretary of Defense for Policy, Project No. D2006DINT01-0077.000, dated 20 Dec 2006

1. (U) The Defense Intelligence Agency (DIA) reviewed the Department of Defense (DoD) Inspector General's (IG) proposed report on the subject topic. The following errors, omissions, and observations are provided for your consideration.

2. (U) DIA recommends the following changes to the referenced report:

a. (U) General Comment. A typo appears in the title of JITF-CT (Joint Intelligence Task Force – Combating Terrorism) in several passages. Globally substitute the term "Joint Intelligence Task Force – Combating Terrorism" for "Joint Intelligence Task Force ? Combating Terrorism" throughout the document.

b. (U) General Comment. The draft IG report contains fairly extensive Central Intelligence Agency (CIA) equities. If they have not done so, DoD IG must refer the draft report to CIA for review prior to a final determination of its release.

c. (U) General Comment. DIA's Foreign Dissemination Office found no classified information falling within DIA equities, with one possible exception on pages 23-24 listed below. Most of the DIA-associated portions in the report marked as classified are overtaken by events and are addressed extensively in other official documents, such as the unclassified Senate Select Committee on Intelligence (SSCI) reports and the Iraq Survey Group Final Report to the Director of Central Intelligence. The release of these portions in a published IG report would not constitute "disclosure" reasonably expected to cause identifiable damage to national security. Under the terms of Executive Order 12958 (as amended 23 March 2003), these portions cannot be classified and are, therefore, unclassified.

UPON REMOVAL OF THE ENCLOSURE,
THIS DOCUMENT BECOMES UNCLASSIFIED.

Derived from: Multiple Sources
Declassify on: 20320108

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Final Report Reference

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d. (U) Page 4, Guidance section. Consider as an additional policy reference DoD Directive 2000.12 that designates responsibilities for counterterrorism analysis within DoD. The passage below is of particular interest, though it is from a Directive revision dated 18 August 2003. A comparable passage likely exists for the version of the Directive in force from 2001-2003.

> (U) "Enclosure 4: E4. 1.1 Establish and operate a Joint Intelligence Task Force for Combating Terrorism (DIA/JITF-CT) to direct collection, exploitation, analysis, fusion, and dissemination of all-source intelligence in support of DoD combating terrorism operations, planning, and policy, including DoD AT requirements. The JITF-CT serves as the single national-level, all-source foreign terrorism intelligence effort within the Department of Defense. The JITF-CT is designated to serve as the central repository of all foreign terrorism-related intelligence for the Department of Defense. Military Department Secretaries and Service Chiefs shall conduct terrorism intelligence activities as a component of or in consonance with the JITF-CT."

e. (U) Page 9, para 1: Delete the word "Senior" of "Senior Intelligence" in lines 1, 3, 10, 16. Rationale: The individual is incorrectly identified. He was a GG-13 Intelligence Analyst. — Deleted

f. (U) Page 9, para 1: Replace the term "Special Assessment" with the word "memo" so that the passage reads, "On August 9, 2002, in a memo, 'JITF-CT Commentary: Iraq and al-Qaida, Making the Case?'" Rationale: A passage incorrectly describes a JITF-CT document as a "Special Assessment," a unique and widely disseminated product in JITF-CT's product line. The document in question was an informal memo for internal consumption, which is only made clear later in the paragraph. — Modified Page 9

g. (U) Page 17 cites as references the Phase I and Phase II SSCI reports (classified versions). However, the unclassified versions that were publicly released contemporaneously contain much of the same information. — Page 19

h. (U) Pages 23-24. The report includes a copy of Assistant Secretary of Defense for International Security Affairs (ASD/ISA) memorandum I-02/001165-NESA, dated 24 January 2004. It consists of a series of bullets purportedly listing intelligence related to al-Qaida/Iraq links. There is no sourcing for these bullets. Information in some of the bullets is found in the unclassified versions of the cited SSCI reports. However, the origin of the information in several of them is unknown. Therefore, DIA may not have the authority to make a determination on the classification status of these items. If the DoD IG, the Under Secretary of Defense for Policy, or another element can supply the source of the bullets in question, DIA will be in a position to determine whether bulleted portion is within DIA's power to declassify, if appropriate. Alternately, with the source of the information known, DIA can refer the DoD IG to the correct authority. At this point, DIA lacks the necessary information to make a declassification determination on the memorandum. — Pages 25-26

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Final Report Reference

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i. (U) Page 29, para 3: Delete the word "senior" in line 2. Rationale: The individual is incorrectly identified. He was a GG-13 Intelligence Analyst.

3. (U) Attached is a copy of pages 23-24, ASD/ISA memorandum I-02/001165-NESA, dated 24 January 2004, that includes marginal notes indicating the declassification findings regarding each bullet. A "U" in the margin indicates the information is known to be in the unclassified SSCI reports or in another previous official release, or is, by itself, no threat of damage to national security. There should be no DIA objection to release of those portions marked with a marginal "U." A note of "source?" in the margin indicates that the origin of the information is unknown. It is therefore uncertain whether DIA has the authority to make a determination on the classification status of these items.

Timothy C. McNeil
Deputy Chief of Staff

1 enclosure
Appendix F, ASD(ISA) Response
To DEPSECDEF Inquiry (S//NF)

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Appendix F. ASD(ISA) Response to Deputy Secretary of Defense Inquiry (U)

ASSISTANT SECRETARY OF DEFENSE

2400 DEFENSE PENTAGON
WASHINGTON, DC 20301-2400

INFO MEMO

I-02/001165-NESA
January 24, 2002 5:03 PM

FOR: SECRETARY OF DEFENSE

FROM: Assistant Secretary of Defense, International Security Affairs

SUBJECT: [redacted]

U [redacted]

U [redacted]

U So far we have discovered few direct links. However, we have uncovered evidence suggesting more robust indirect links. This is not surprising given the denial and [redacted] concealment strategies employed by Saddam's intelligence service.

U [redacted]

source?

U [redacted]

source?

U Indirect Links:

source? • Abu Nidal Organization (ANO) headquartered in Baghdad.

U • ANO has following known links to al-Qaida:

source? - Bin Ladin met in January 1998 with the General Secretary of ANO. Agreed to provide financial assistance in return for unspecified assistance to al-Qaida.

Classified by: [illegible]
Reason: 1.5(d)
Declassify on: X1

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Team Members

The Department of Defense Office of the Deputy Inspector General for Intelligence prepared this report. Personnel of the Department of Defense Office of Inspector General who contributed to the report are listed below.

Sheldon R. Young

[redacted]

b(6)

ANNEX B

Memorandum for the Inspector General, Department of Defense

on behalf of

The Honorable Douglas J. Feith,

Former Under Secretary of Defense for Policy

July 12, 2006

Preliminary Statement

This memo addresses the issues involved in the Department of Defense Inspector General's review of former Under Secretary of Defense for Policy Douglas J. Feith and his office ("OUSDP"), in particular relating to the activities of the Policy Counter Terrorism Evaluation Group ("PCTEG"), the Office of Special Plans ("OSP"), and other projects. We believe a thorough examination of these activities in light of applicable statutes and relevant policy considerations will establish that none of these activities was unauthorized, unlawful, or inappropriate.

Background

The Under Secretary of Defense for Policy ("USDP"), by statute (10 U.S.C. § 134), assists the Secretary of Defense ("SECDEF") in preparing written policy guidance for the preparation and review of contingency plans and in reviewing such plans. To fulfill these statutory duties properly, the Under Secretary and his staff must review threat assessments and other intelligence community reports.

Title 10 also gives the Secretary of Defense the right to prescribe other duties and powers for the USDP as the SECDEF dictates. These additional responsibilities are detailed in Department of Defense ("DOD") Directive 5111.1. The directive assigns the USDP responsibilities for policy guidance, overall supervision, and oversight for planning, programming, budgeting, and execution of special operations activities, including counter terrorism. After the attacks of September 11, 2001 ("9/11"), the USDP and his office became a key office in the formulation of DOD and U.S. government strategy and policies for the Global War on Terrorism. Congress confirmed this role for the USDP when it passed the National Defense Authorization Act for Fiscal Year 2003 (P. L. 107-314, December 2, 2002). Section 902(b) of the Act amended 10 U.S.C. § 134 by adding a new subsection stating:

> (4) Subject to the authority, direction and control of the Secretary of Defense, the Under Secretary of Defense for Policy shall have overall direction and supervision for policy, program planning and execution, and allocation and use of resources for the activities of the Department of Defense for combating terrorism.

Thus, the activities of the USDP, the office of the USDP and other DOD staff should be viewed in the context of this Congressional endorsement of the role given to the USDP by the SECDEF following 9/11.

Issues addressed in this memorandum already have been examined by the Senate Select Committee on Intelligence ("the SSCI"), the Senate Armed Services Committee, and an independent Commission.[1] Senator Pat Roberts, Chairman of the SSCI, has stated that, in the SSCI's examination, he "ha[s] not discovered any credible evidence of unlawful or improper activity . . ."[2] Since Chairman Roberts was concerned about the "persistent and, to date, unsubstantiated allegations" of illegality or impropriety, he requested, in a letter dated September 9, 2005, that the Department of Defense Inspector General initiate an investigation into the OSP's activities prior to the war in Iraq.[3] Senator Carl Levin (D-MI), the ranking member of the Senate Armed Services Committee and a member of the SSCI, then requested that the Inspector General expand the investigation to "include all elements of the Office of the Under Secretary of Defense for Policy, including the Policy Counter Terrorism Evaluation Group (PCTEG), and the Policy Support Office."[4] Senator Levin further asked that the Inspector General consider ten specific questions.[5]

The Inspector General notified the Under Secretaries of Defense for Policy and Intelligence of the review.[6] The Inspector General stated that "[t]he overall objective [of the review] will be to determine whether personnel assigned to the Office of Special Plans from September 2002 through June 2003 conducted *unauthorized, unlawful, or inappropriate* intelligence activities."[7]

The allegations' legal merits are addressed below. Most allegations raised by Senator Levin, even if believed to be true, demonstrate no unauthorized, unlawful, or inappropriate activity. Other claims simply are not supported by the facts. The Chairman of the SSCI stated that after a review of thousands of documents and numerous interviews he has "not discovered any credible evidence of

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[1] *See* Senator Pat Roberts, Letter to The Honorable Joseph E. Schmitz, Department of Defense Inspector General, September 9, 2005 (*hereinafter* "Roberts Letter"). *See also*, Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction, March 31, 2005 (*hereinafter* "Silberman-Robb Commission"); Senate Select Committee on Intelligence, "Report on the U.S. Intelligence Community's Prewar Intelligence Assessments on Iraq," July 7, 2004 (*hereinafter* "SSCI Report on Prewar Intelligence").

[2] Roberts Letter.

[3] *Id.*

[4] Senator Carl Levin, Letter to Department of Defense Acting Inspector General Tom Gimble, Sept. 22, 2005 (*hereinafter* "Levin Letter").

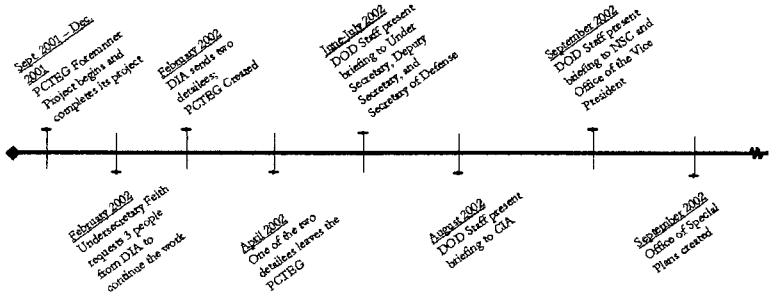
[5] *See id.*

[6] Memorandum from Acting Deputy Inspector General for Intelligence Shelton R. Young to the Under Secretary of Defense for Policy and the Under Secretary of Defense for Intelligence, Nov. 16, 2005.

[7] *Id.* (emphasis added).

unlawful or improper activity."[8] Even Senator Levin, at the time he issued his own report on the matter, acknowledged that he "*had no evidence that Mr. Feith's conduct had been illegal.*"[9]

Timeline of Events



Summary of Facts

The Policy Counter Terrorism Evaluation Group

The Policy Counter Terrorism Evaluation Group ("the PCTEG") was a project initiated by the Under Secretary of Defense for Policy in February 2002. Although the PCTEG is often confused with the OSP, the two were separate matters. In fact, the PCTEG had finished its work before the OSP came into existence.

Shortly after the attacks of September 11, 2001, Under Secretary Feith asked two OUSDP staff members to review and analyze existing intelligence reports related to the interconnections between various terrorist groups and their state sponsors.[10] The work of these two staff members was the forerunner of the PCTEG. Working between October 2001 and December 2001, the two

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[8] Roberts Letter.

[9] Douglas Jehl, "Pentagon Reportedly Skewed C.I.A.'s View of Qaeda Tie," *New York Times*, Oct. 22, 2004, A10 (emphasis added).

[10] Douglas J. Feith, Press Briefing with the Under Secretary of Defense for Policy, and William J. Luti, Deputy Under Secretary of Defense for Special Plans and Near East and South Asian Affairs, June 4, 2003 (*available at* http://www.defenselink.mil/transcripts/2003/tr20030604-0248.html).

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staff members prepared a report comprising approximately 150 briefing slides citing numerous intelligence reports about the linkages among terrorist groups and their state supporters.

Following the departure of the two staff members, Under Secretary Feith, in February 2002, requested in writing that the Director of the Defense Intelligence Agency ("DIA") detail three individuals to continue the work. In that request, Mr. Feith gave the project the name PCTEG.[11] The request was routine, and the PCTEG itself was not classified. The DIA Director provided two individuals, who became the Group.

The PCTEG never employed any contractors and was never more than two people at any one time. The goal of the PCTEG was "to help policymakers digest large amounts of intelligence community information on international terrorist networks with the aim of identifying 'chokepoints' of cooperation and coordination, identifying vulnerabilities, and recommending strategies to render terrorist networks ineffective."[12] The PCTEG reviewed *existing* intelligence products in order "to think through what it means for the Defense Department to be at war with a terrorist network," a war which "presents a number of peculiar conceptual challenges."[13] One DIA detailee left the PCTEG in April 2002.[14] Following that departure, other DOD staff assisted the sole member of the PCTEG to review intelligence information for the purpose of supporting the War on Terrorism.

Iraq-al Qaida Intelligence

The PCTEG's work was global in scope. It did not focus solely – or even primarily – on Iraq, al Qaida, or the connection between the two. The PCTEG forerunner project's main product was an extensive presentation assessing the links among terrorist organizations and state sponsors of terrorism, including some findings that ran counter to the conventional wisdom at the time. The information regarding Iraq-al Qaida links was only one small part of the presentation.[15]

Beginning in the spring of 2002, other DOD staff began reviewing the Intelligence Community ("IC") products on the Iraq-al Qaida relationship. That review was not a PCTEG project as such, although the sole remaining PCTEG staffer participated. The various participants in that review "came up with some interesting observations about the linkages between Iraq and al-

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[11] Douglas J. Feith, Memorandum from the Under Secretary of Defense for Policy to the Director, Defense Intelligence Agency, re Request for Support, Feb. 2, 2002, I-02/001533-NESA.

[12] Feith, Press Briefing.

[13] *Id.*

[14] Douglas J. Feith, Statement of the Under Secretary of Defense for Policy before the Senate Select Committee on Intelligence, July 10, 2003.

[15] *See* Feith, Press Briefing.

Qaeda."[16] Those DOD staffers criticized the IC's analysis of those links, believing that the IC was underplaying or ignoring its own, older intelligence reports about the Iraq-al Qaida connection. Their critique, which they never wrote up formally, took issue with the IC's approach to the Iraq-al Qaida issue in general. The DOD staffers believed that information the IC had obtained from debriefing war-on-terrorism detainees added new significance to the older intelligence reports.[17] The DOD staff did not conclude that the old reports were better. Rather, they merely argued that the reports should be assessed in light of the new information.

In August 2002, those DOD staffers[18] presented their critique to senior DOD officials, including the Deputy Secretary and Secretary of Defense. At Secretary Rumsfeld's request, they also presented it to the Director of CIA later that same month. In September 2002, they presented it to members of the staff of the National Security Council and the Office of the Vice President. At no time in these briefings did the DOD staffers present their thoughts as conclusions of the IC. They presented them as the views of policy staffers that challenged some of the intelligence community's work.

The Office of Special Plans

Due to the increasing workload relating to Iraq issues in September 2002, the Deputy Secretary of Defense approved an eighteen-person increase for the Near East and South Asia ("NESA") office within OUSDP. NESA then reorganized to manage its expanded staff and increased workload. The reorganization included creating the Northern Gulf Directorate, which at the time was the OSP. The non-descript name was purposeful: the Administration did not want to spur news reports about the Pentagon's creating a new Iraq office while it was engaged in diplomatic efforts to win international support for a non-military solution to the situation with Iraq. Following the end of major combat operations in Iraq, the Defense Department renamed OSP the "Directorate of Northern Gulf Affairs."

The OSP functioned as do other regional offices within DOD's Policy organization, and its tasking was no different. Specifically, OSP was responsible for developing U.S. strategy and policy options for senior decision makers. This is part of the roles and missions with which OUSDP is tasked as the principal office advising the Secretary of Defense on national security and defense policy. The OSP was not an intelligence office nor an office responsible for military or intelligence operations; it was a policy office with standard geographic responsibilities, though events in its area of responsibility, which included Iraq, were extraordinary.

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[16] *Id.*

[17] Feith, Statement to the SSCI, July 10, 2003.

[18] This "DOD staff" included a member of the Office of Deputy Secretary of Defense Wolfowitz. The work product of this group, therefore, was not exclusively that of the OUSDP.

Levin Question One

"Did the Office of Under Secretary Feith produce its own intelligence analysis of the relationship between Iraq and al Qaeda and present its analysis to other offices in the executive branch (including the Secretary of Defense and the staffs of the National Security Council and the Office of the Vice President)?"

This question concerns the September 2002 briefing that the DOD staff provided to Deputy National Security Advisor Stephen Hadley, National Security Council ("NSC") staff members, and the Vice President's Chief of Staff, Scooter Libby. The Defense Department did not produce its own intelligence analysis of the Iraq-al Qaida relationship.

The sole remaining member of the PCTEG and other DOD staff members developed an oral critique of the IC's work on the Iraq-al Qaida connection. As a visual aid for the presentation of that critique, they created a Power Point briefing, a standard Pentagon product to help with an oral presentation. The DOD staff developed an analysis and critique of the IC's intelligence analysis – not intelligence analysis of their own. This distinction is important. The DOD staff did not engage in intelligence activity: they did not collect any intelligence; there was no covert element to what they were doing; they were not recruiting or handling agents; and they were not paying agents.[19] The DOD staff simply reviewed existing intelligence products that addressed the relationship between Iraq and al Qaida. The DOD staff cited intelligence reports they believed the IC was either downplaying or not including at all in its current assessments. The DOD staff never held out their critique as analysis or findings by the IC. The DOD staff simply criticized what they saw as problems with the IC's view of the subject.

The term "intelligence analysis" is ambiguous in that it could be used for analysis by intelligence officials or it could be used for analysis of intelligence by policy officials. It is probably best to reserve the term for analysis by intelligence officials, but it is not always so restricted.[20] Reading intelligence and thinking about it critically is a routine policy activity. It is not necessarily an intelligence activity. Reviewing intelligence and making policy recommendations is the essence of policy analysis and decision-making.[21] There are no laws, regulations, or directives that proscribe policy personnel from providing their own analysis of IC products.

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[19] As discussed further *infra*, there is no legal definition of "intelligence activity." However, the listed factors may be considered those typically present to distinguish intelligence activity from other activity that routinely is conducted by the Department of Defense and other government agencies.

[20] DOD staffers who worked on the PCTEG or its forerunner project said in interviews with the SSCI "that at some point, and often predominantly, their work involved intelligence analysis." SSCI Report on Prewar Intelligence, at 311.

[21] *See eg*, CIA Factbook on Intelligence, "The Intelligence Cycle," *available at* http://www.cia.gov/cia/publications/factfell/intelligence_cycle.html (noting that "policymakers, the recipients of finished intelligence, then make decisions based on the information") (last viewed July 12, 2006).

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All senior policymakers require the various types of analyses that can be provided by either intelligence personnel or policy personnel. Policymakers solicit the opinions of *both*, since each will have a different knowledge base and a different perspective. For example, the Secretary of Defense may need predictions on how foreign defense officials may react in a given situation. DIA analysts' opinions will be based on intelligence and other reports. Senior OUSDP officials at the Under and Assistant Secretary level may know the foreign officials personally and be able to assess their likely reactions not just from third-party reports but also from personal familiarity.

The conclusions of the SSCI and WMD Commission investigations into the failures of pre-Iraq-war intelligence emphasized the importance of policymakers thinking critically and questioning intelligence analysis.[22] The SSCI Report concluded that such questioning improves the intelligence product.[23] It is appropriate that policy personnel discuss intelligence critically with their policy colleagues and superiors. It also was routine for the briefing in question to have moved up the chain of command to the Secretary of Defense. It was the Secretary of Defense himself who asked the briefers to provide it to George Tenet, the DCI. And it was not surprising that members of the NSC staff and Vice President's staff would want to hear the critique that had been presented to Mr. Tenet and his CIA colleagues.

Levin Question Two

"Did the intelligence analysis produced by Under Secretary Feith's office differ from the Intelligence Community analysis on the relationship between Iraq and al Qaeda?"

The question mischaracterizes not only the activities of the Department of Defense but also who within DOD conducted the activity. The DOD staff *did not* produce their own intelligence analysis. The DOD staff analyzed and criticized the IC's analysis.

The DOD staff's work did not become illegal, inappropriate or improper because they understood terrorism issues differently from their IC colleagues. There can be differences about

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[22] *See e.g.*, SSCI Report on Prewar Intelligence, at 29 ("The Committee believes that policymakers at all levels of government and in both the executive and legislative branches would benefit from understanding the full range of analytic opinions directly from the agencies who hold those views, or from truly impartial representatives of the entire Intelligence Community."). The SSCI Report also notes that "[i]n some cases CIA analysts were not open to fully considering information and opinions from other intelligence analysts or creating a level playing field in which outside analysts fully participated in meetings or analytic efforts." *Id.* at 28. *See also Report of the Joint Inquiry into the Terrorist Attacks of September 11, 2001*, House Permanent Select Committee on Intelligence and Senate Select Committee on Intelligence, at xvi (2002) (noting that prior to the September 11, 2001, attacks "there was a dearth of creative, aggressive analysis targeting Bin Ladin and a persistent inability to comprehend the collective significance of individual pieces of intelligence. These analytic deficiencies seriously undercut the ability of U.S. policymakers to understand the full nature of the threat, and to make fully informed decisions.").

[23] *See* SSCI Report on Prewar Intelligence, at 34.

intelligence within the IC and between the IC and policy makers. The U.S. government has an interest in encouraging everyone to engage in critical thinking about intelligence. Policy makers have the right to think critically about intelligence, to challenge intelligence analyses, and to disagree with the IC. All of those things can be done professionally and properly without politicizing intelligence. Both the SSCI and WMD Commission reports make the point that tough questioning of the IC by policy makers should be *encouraged* and does not amount to politicization or improper or inappropriate behavior.[24]

Finally, the question ignores the complexities that exist within the "Intelligence Community." The IC is made up of different agencies, organizations, and elements that often have diverging views from one another. Even in supposedly consensus products, such as National Intelligence Estimates, organizations can file dissents if they do not agree with a conclusion.

Levin Question Three

"Was the alternative [OUSDP] intelligence analysis supported by the underlying intelligence?"

Levin Question Six

"Did the Office of the Under Secretary of Defense for Policy (OUSDP) prepare and present briefing charts concerning the relationship between Iraq and al Qaeda that went beyond available intelligence by asserting that an alleged meeting between lead 9/11 hijacker Mohammed Atta and Iraqi intelligence officer al-Ani in Prague in April 2001 was a 'known' contact? (emphasis added)"

The work of the DOD staff was supported by the underlying intelligence. (*See* the discussion below of "Levin Question Ten" for a more in-depth analysis of the DOD staff's conclusions.) Reasonable people could conclude either way whether the alleged meeting in Prague between Mohammed Atta and Iraqi intelligence officer al-Ani was a "known contact" or a "possible" contact.[25] The former characterization was made once in the August 2002 briefing to DCI Tenet

[24] *See e.g.*, SSCI Report on Prewar Intelligence at 6, 18 (noting that new CIA analysts are warned of "the pitfalls of assumptions and biases in their own analysis and in the work of others" but that nevertheless "group think" was pervasive and contributed to IC failures). *See also* Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction (Silberman-Robb Commission), Transmittal Letter, March 31, 2005 ("While policymakers must be prepared to credit intelligence that doesn't fit their preferences, no important intelligence assessment should be accepted without sharp questioning that forces the community to explain exactly how it came to that assessment and what alternatives might also be true. This is not "politicization;" it is a necessary part of the intelligence process.").

[25] The CIA has concluded that the meetings between Atta and al-Ani "likely never occurred," *see* SSCI Report, at 340, but the CIA has not definitively said it did not. In the period in which the DOD staffers briefed their critique to Rumsfeld, Tenet, Hadley and Libby, Mr. Feith recalls that the CIA was telling policy makers that it had reassessed the meeting. Though the CIA originally thought the meeting had occurred, the CIA then questioned that conclusion. The CIA did not say that it had concluded that the meeting had not occurred. The "likely never occurred"

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and an additional slide elaborated on the al-Ani-Atta meeting during the September 2002 briefing to Hadley and Libby. The controversy about the alleged al-Ani-Atta meeting was very well known, especially to Hadley and Libby. They also knew the difference between an IC assessment and a policy office's criticism of that assessment. High-level officials know that policy officials often disagree with IC assessments; such officials know how to distinguish between an official IC assessment and a policy office's challenge thereto. There is no basis for believing that Hadley or Libby or anyone else in the U.S. government believed that the DOD staffers' view of that alleged meeting was taken as anything other than the staffers' view. At most, the audience for the DOD staffers' briefing would have concluded that this was the side of the debate on which the particular briefers came down. They would not have taken it as a definitive answer to the question.

Levin Question Four

"Did Under Secretary Feith send CIA ORCON material to the Senate Select Committee on Intelligence in October 2003 without CIA approval to release it, even though such approval is required by Executive Order?"

In a July 2003 briefing, Under Secretary Feith told the Senate Select Committee on Intelligence ("SSCI") that some DOD staff members believed that certain old IC products had either been underplayed or ignored entirely in the recent finished intelligence on the Iraq-al Qaida connection. On September 26, 2003, the Committee sent Questions for the Record to Under Secretary Feith. Included in those questions was a request "for intelligence community documents to which [Under Secretary Feith] had alluded" in the briefing.[26] Under Secretary Feith sent the Committee a list of the reports to which he referred and brief summaries prepared by OUSDP staff containing points about each report. Under Secretary Feith submitted the summaries and the complete documents in a classified annex to the Questions for the Record.[27] The response, the "Summary of Body of Intelligence on Iraq-al-Qaida Contacts (1990- 2003),"[28] is now referred to as the "Annex on Iraq-al Qaida links." The Annex was a list. It was not a substantive analysis of the subject, drew no conclusions, and was never intended to be sent anywhere other than the SSCI in answer to the Question for the Record.[29]

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formulation did not arise until many months after the August-September 2002 time frame in which the DOD staffers briefed their critique to the senior administration officials. SSCI Report on Prewar Intelligence, at 340. At the same time, however, news reports indicate that Czech intelligence still stands by its original claim that the meeting occurred. *See e.g.*, Edward Morrissey, "Rethinking Prague," *The Weekly Standard*, Aug. 24, 2005.

[26] Letter from Under Secretary Douglas J. Feith to Senator Carl Levin, Oct. 20, 2004.

[27] *Id.* at 2.

[28] *See* Levin Report, at 25.

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While preparing the Annex, the OUSDP asked the CIA for permission to release the Originator Controlled ("ORCON") material. The process of compiling the list, writing the summaries, and seeking approval was time consuming. The OUSDP staff gave the Summary to the CIA on October 24, 2003 and noted that the answers were already overdue.[30] (SSCI's Questions for the Record were issued to the OUSDP on September 26, 2003 and had a "due date" of October 3.[31]) In response, "[t]he CIA said that it would try to provide clearance by October 27, 2003."[32] When the OUSDP had not received formal word from the Agency by that date, the OUSDP provided SSCI with the answer.[33] Neither Under Secretary Feith nor Deputy Director of Central Intelligence John McLaughlin was aware that the answers may have been sent to the SSCI before ORCON approval had been finalized; they believed that the CIA had in fact approved the release of the ORCON material.

The CIA's approval is required before another agency may release CIA ORCON material.[34] Regarding the Iraq-al Qaida annex that Under Secretary Feith sent to the SSCI in October 2003, Under Secretary Feith believed that he *did* have such approval from the CIA and Deputy CIA Director McLaughlin believed likewise. Feith and McLaughlin personally cleared a November 15, 2003 Defense Department public statement saying that DOD provided the material in question to the SSCI "with the permission of the intelligence community."[35]

After the SSCI received the material, the *Weekly Standard* published an article that purported to quote directly from the Annex.[36] The article characterized the Summary as "case closed," implying incorrectly that Under Secretary Feith's office was making an argument for the links between Iraq and al-Qaida rather than simply responding to the SSCI's Question for the Record. The release of the article caused an uproar. Under Secretary Feith issued a press release on the

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[29] *See* News Release, "DoD Statement on News Reports of Al Qaeda and Iraq Connections," Nov. 15, 2003 (*available* at http://www.defenselink.mil/releases/2003/nr20031115-0642.html).

[30] *See* Letter from Under Secretary Douglas J. Feith to Senator Carl Levin, Oct. 20, 2004 at 2.

[31] *Id.*

[32] *Id.*

[33] *Id.*

[34] *See* Executive Order No. 12958, "Classified National Security Information," Apr. 17, 1995 (as amended by Executive Order No. 12972, Sept. 18, 1995 and Executive Order No. 12142, Nov. 19, 1999) (stating that "Classified information shall remain under the control of the originating agency or its successor in function. An agency shall not disclose information originally classified by another agency without its authorization.").

[35] News Release, "DoD Statement on News Reports of Al Qaeda and Iraq Connections," Nov. 15, 2003 (*available* at http://www.defenselink.mil/releases/2003/nr20031115-0642.html).

[36] *See* Stephen F. Hayes, "Case Closed: The U.S. Government's Secret Memo Detailing Cooperation between Saddam Hussein and Osama bin Laden," *The Weekly Standard*, Nov. 24, 2003.

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article on November 15, 2003.[37] The press release criticized those who leak or purport to leak classified information, noted that the Annex was not a substantive analysis, and stated that "[t]he provision of the classified annex to the Intelligence Community *was cleared by other agencies and done with the permission of the intelligence community.*"[38] As noted above, the CIA approved the language in the press release and Mr. McLaughlin personally worked on this matter.

Mr. Feith's office sought the CIA's ORCON release authority and Mr. Feith believed, as did Mr. McLaughlin, that the CIA had granted it. The circumstances surrounding the authorization are not absolutely clear. It is routine for the CIA to clear the release of information to the SSCI upon the Committee's request. In providing the Annex to the SSCI, Under Secretary Feith was making his best efforts to respond to a formal request by the Committee of jurisdiction over intelligence matters.

Levin Question Five

"Did Under Secretary Feith mislead Congress when he sent to several congressional committees in January 2004 revised ORCON materials that were represented as containing the CIA's requested changes to the October 2003 documents, but which did not fully and accurately reflect the CIA's requested changes? For instance, did the revised material sent by Under Secretary Feith to congressional committees provide a misleading impression of the reliability and credibility of a key intelligence source, as compared to the CIA's required changes to the document? In other words, did the supposedly 'corrected' DOD documents suggest that the source was more reliable and credible (having 'very close access') than the CIA believed to be the case (a 'third hand' source to a foreign government intelligence service that 'does not meet directly with the ultimate source of the information, but obtains the information from him through two unidentified intermediaries, one of whom merely delivers the information to the Service')?"

The publication of the *Weekly Standard* article prompted the Senate Armed Services Committee ("the SASC"), the House Permanent Select Committee on Intelligence ("the HPSI"), and the House Armed Services Committee ("the HASC") all to request the Annex. Because the original ORCON release request applied only to the SSCI, the OUSDP requested CIA ORCON release authority for the other committees. On December 10, 2003, the CIA authorized the release

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[37] *See* News Release, "DoD Statement on News Reports of Al Qaeda and Iraq Connections," Nov. 15, 2003 (*available* at http://www.defenselink.mil/releases/2003/nr20031115-0642.html).

[38] *Id.* (emphasis added).

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of the information but, in light of the public controversy caused by the *Weekly Standard* article, requested approximately thirty "'additions, deletions and/or source document clarifications.'"[39]

To satisfy the CIA's request for changes while also complying with the other committees' request for the Annex, Mr. Feith sent the committees the Annex, accompanied by a memo, drafted by OUSDP staff, setting out the changes that the CIA had requested. He told the committees that the memo reflected the CIA's requested changes.

In his October 2004 report, Senator Levin says that the OUSDP's memo did not accurately reflect the CIA's changes. But the CIA has answered that Senator Levin is incorrect on this point. Following the release of that report by Senator Levin, Under Secretary Feith asked the CIA to review "the fidelity with which [Feith] accommodated" the CIA's required changes.[40] The CIA responded in a November 1, 2004 letter to Under Secretary Feith stating: "[a]fter a careful comparison between that submission [to the SASC] and what we had requested as our condition for clearance of CIA material, *I believe that you made all of the changes we requested.*"[41] The SSCI, of which Senator Levin is a member, had a copy of this November 1 CIA letter nine months before he reasserted this allegation in his September 2005 letter to the Inspector General.

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[39] *See* Letter from Under Secretary Douglas J. Feith to Senator Carl Levin, Oct. 20, 2004 at 2-3 (*quoting* CIA Letter to Douglas J. Feith, Dec. 10, 2003).

[40] Letter from CIA Director of Congressional Affairs Stanley M. Moskowitz to Under Secretary of Defense Douglas J. Feith, Nov. 1, 2004.

[41] *Id.* (emphasis added). Mr. Moskowitz also added the following comments on two of the approximately 30 specific requests the CIA had made:

> "Regarding entry 8, you did as we asked, and removed the reference to 'a well placed source'. Instead of picking up the language in the original report regarding the fact that the foreign service was not in direct contact with the source of information, you took the reader to a published CIS SEM that called the information 'the most credible' we have. I presume that since CIA did not find it necessary to caveat the 'most credible information', you felt no need to do so either. On questions 9 and 10, you did as we asked.
>
> "Regarding item 33, the first two complete sentences are supported by the CIA 21 June 2002 document and the SEM, as you indicated. The last sentence regarding al-Zarqawi's entry into Iraq and what the Iraqis knew and planned is not supported by either of those two documents. You supported that last sentence by reference to a DIA briefing for the CJCS ('CIA report in CJCS 32192051 7 August noted 2002'). You sent us a copy of that briefing slide which tracks to your statement and has (CIA) at the bottom of the slide. However, your office did not supply the underlying CIA information we requested."

The CIA subsequently confirmed, through the Director of Intelligence for the Joint Staff, that the CIA still regarded the source of those reports as valid and had not retracted the reports. *See* "Memorandum for the Under Secretary of Defense for Policy: Subject: CIA Issue," MG Ronald Burgess, Jr., Director for Intelligence, J2, Jan. 25, 2005.

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Levin Question Seven

"Did the staff of the OUSDP present a briefing on the Iraq-al Qaeda relationship to the White House (Deputy National Security Adviser Stephen Hadley and Vice President Cheney's Chief of Staff I. Lewis Libby) in September 2002, unbeknownst to the Director of Central Intelligence, containing information that was different from the briefing presented to the [Director of Central Intelligence] DCI, not vetted by the Intelligence Community, and that was not supported by the available intelligence (for example, concerning the alleged Atta meeting), without providing the IC notice of the briefing or an opportunity to comment?"

As already discussed, DOD staffers had developed a critique of the IC's work on the Iraq-al Qaida connection that they presented orally to senior policymakers in August and September 2002 with the help of briefing slides. As will be explained in the more detailed discussion below, a small number of changes to the slides were made as successive briefings were conducted. This practice is ordinary, proper, and, indeed, very common for Defense Department briefings. As matters are briefed over and over again, briefing slides are often modified to address thoughts of particular audiences and to reflect comments made in previous briefings.

To the best of Mr. Feith's recollection, the briefing slides used in the September 2002 briefing to Hadley and Libby differed somewhat from those used in the August briefing to DCI Tenet, which differed somewhat from the slides used in the briefing to Secretary Rumsfeld. The differences between the briefings "primarily reflected ongoing work."[42] Included in the briefings to the Secretary of Defense and White House staff but not in the briefing to the DCI was: (1) a slide that had a tone that might have annoyed CIA analysts, so the slide was deleted in the interests of fostering a constructive meeting; and (2) information learned by the DOD staff after reading a new draft of the *CIA's report* on Iraqi links to terrorism.[43] The briefing given to the White House officials also included an extra slide with a second reference to the Atta meeting.

The differences in the briefing slides were not of great significance. The SSCI Report validated the propriety of the DOD staff's work in the various briefings of Rumsfeld, Tenet and Hadley and Libby, including the way the briefing slides were used and modified. Senator Levin puts particular emphasis on the reference(s) to the Atta meeting. In his Report, Senator Levin states that a briefing slide discussing the Atta-al-Ani meeting was "omitted from the version presented to the CIA but included in the version presented to the White House."[44] As the briefings were oral, they varied somewhat every time they were given and there was no requirement that they be identical to

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[42] *See* Levin Report, at 17.

[43] *See* SSCI Report on Prewar Intelligence, at 310.

[44] Levin Report, at 17. It may not be correct that a particular slide had been "omitted" from the briefing to the CIA. The slide referred to may actually have been produced and added to the presentation after the briefing to the CIA and before the briefing to the Deputy National Security Advisor and the Chief of Staff to the Vice President.

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one another. In any event, the briefing to the CIA included a reference to the meeting as a "known contact."[45] While a particular slide was added after Tenet received the briefing, the key point about that slide was in the briefing that had been given to Tenet. The SSCI Report supports the DOD staff's statement that the differences "primarily reflected ongoing work." The Report states that "[t]he briefing slides presented at this [the White House] briefing had been updated to incorporate information that had been included in the draft of Iraqi Support for Terrorism, which the [DOD] staffers were probably not aware of until they reviewed the draft."[46] Thus, not only did the differences in the briefing slides reflect ongoing work, they reflected new information that the DOD staff received *from the CIA*. The only slide that the CIA never saw was the slide that was critical of the CIA and the IC's approach to the issue. As DOD told Senator Levin, the slide "was omitted from the briefing to DCI Tenet so that it would not distract from a substantive discussion."[47]

The IC also knew about the content of the briefing. The DOD staff presented to the CIA an oral briefing through the use of slides nearly identical in substance. The only apparent substantive differences between the briefing slides involved information that came from the CIA itself. So the suggestion that the CIA did not have an opportunity to vet the briefing and comment on it is wrong. It has been reported that the DCI almost always was present for the President's daily intelligence briefing.[48] With the CIA Director's daily access to the President, he had the opportunity to present the CIA's assessment, if it differed. The SSCI Report highlighted that CIA officials routinely presented controversial matters without the attendance of the other parties to the controversy; there was no suggestion that those other parties should have been provided "notice and opportunity to comment."[49] Moreover, it was Hadley's decision whether to invite the CIA to the briefing for him at the White House; it was not the prerogative of the DOD staffers giving the briefing.

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[45] *See* SSCI Report on Prewar Intelligence, at 309, 310 (noting that the internal Department of Defense briefing contained the Atta slide and that "*the same* OUSDP briefing was presented to the DCI, the Deputy Directors for Intelligence and Operations, and a number of other CIA officials and analytic managers." (emphasis added)).

[46] *Id.*

[47] Levin Report, at 17.

[48] *See e.g.*, Douglas Jehl, "The Reach of War: Intelligence; Tenet's Leadership, His Pride, Faces Attack from Senate Panel as He Leaves C.I.A.," July 11, 2004 (noting that "Mr. Tenet met nearly every morning with Mr. Bush to listen in on his daily intelligence briefing"). *See also* SSCI Report on Prewar Intelligence, at 29 (noting that "the Presidential Daily Briefs (PDBs) are prepared by CIA analysts and are presented by CIA briefers who may or may not provide an explanation of alternative views from other intelligence agencies.").

[49] *See* SSCI Report on Prewar Intelligence, at 29 (noting that the CIA is responsible for preparing and presenting the President's Daily Brief and "may or may not include an explanation of alternative views from other intelligence agencies. Other Intelligence Community agencies *essentially must rely on the analysts who disagree with their positions* to accurately convey their analysis to the nation's most senior policymakers." (emphasis added)).

There is a *shared* responsibility to provide information to senior policymakers so that they are fully informed when making decisions about U.S. national security and foreign policy.[50] It is also customary for senior policy officials, such as the Under Secretary of Defense, to brief the Executive Office on matters within their areas of responsibility. There are no laws, regulations, or Executive Orders that require such briefings must be done with the permission of the DCI or provide notice and opportunity to the DCI to comment, nor should there be.

Further, it would be impractical, contrary to common sense, and an inappropriate interference with the discretion and prerogatives of senior leaders in the Executive Branch, including the President, to require that the CIA Director be present or have "notice" or "an opportunity to comment" any time a matter of intelligence is discussed. There are a multitude of issues discussed among senior government officials every day across a wide range of substantive areas, and no similar limitation has been suggested in any other area concerning any other senior official. Such a rule applicable to intelligence matters alone could make it impossible for government to function efficiently and effectively in a host of related areas. In any event, it is for the President as Chief Executive and Commander in Chief to determine how and when such information should be presented to him. As a practical matter, senior intelligence officials have ample opportunity to communicate personally with the President virtually every day.

Levin Question Eight

"Did the staff of the OUSDP undercut the Intelligence Community (IC) in its briefing to the White House staff with a slide that said there were 'fundamental problems' with the way the IC was assessing information concerning the relationship between Iraq and al Qaeda, and inaccurately suggesting that the IC was requiring 'juridical evidence to support a finding,' while not providing the IC notice of the briefing or an opportunity to comment?"

It is unclear what the word "undercut" means in Senator's Levin's question. The DOD staff did criticize the IC's work on the Iraq-al Qaida connection, but the criticism was constructive and professional. Both the SSCI Report and the Silberman-Robb Commission encouraged policy officials to criticize, challenge and debate intelligence in the interest of ensuring that the IC produces the best possible products. To the extent that the word "undercut" connotes anything improper, the DOD staff cannot be said to have undercut the IC. Vigorous debate on matters critical to national security, as well as other important areas, is not simply desirable – it is necessary.

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[50] *See* Executive Order 12333, *supra* note 18. *See also* SSCI Report on Prewar Intelligence, at 29 ("The Committee believes that policymakers at all levels of government and in both the executive and legislative branches would benefit from understanding the full range of analytic opinions directly from the agencies who hold those views, or from truly impartial representatives of the entire Intelligence Community.").

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The briefing slide referred to in Senator Levin's question eight did criticize the IC's analysis. That slide was part of the briefing to the Secretary of Defense and to the White House staff. The slide was not inaccurate, though it expressed a view on the IC's standards of evidence with which IC officials and others might disagree.

The slide in question said that the IC was demanding "juridical evidence to support a finding"[51] regarding the Iraq-al Qaida relationship. The DOD staff believed that this was not the correct or usual standard for such a matter.

Senator Levin apparently takes issue with the DOD staff's criticizing the IC's work in this context. In doing so, he notes internal debate within the CIA itself on the issues of Iraq and al Qaida. He points to a CIA Counter Terrorism Center (CTC) report titled "*Iraq and al Qaida: Interpreting a Murky Relationship*,"[52] in which the CTC took a "purposefully aggressive" approach to assessing ties between Iraq and al Qaida.[53] Senator Levin suggests that a more aggressive approach – that is, an approach such as that allegedly preferred by the DOD staff – would be irresponsible.[54]

We disagree, and we believe the internal debate within the CIA itself makes the point. As Senator Levin acknowledged, the CTC did not take the traditional approach to intelligence findings when it produced that report.[55] In fact, the CIA's Near East and South Asia (NESA) office – which *did* "[take] a traditional analytic approach"[56] – would not sign-on to the report's conclusions because it disagreed with the CTC's methodology. The fact that one particular office within the IC (the CTC) took a more aggressive approach with respect to a single report does not refute the DOD staff's characterization of the standards used by the IC *in general*. In fact, the DOD staff's assertion is confirmed by the fact that NESA, taking the traditional approach, would not sign-on to the report specifically because of the more aggressive approach used by the CTC. In any event, this kind of debate cannot be limited to the IC simply because the subject matter is intelligence. When intelligence is a critical factor in the policy-making process, policymakers need staffs that will scrutinize and debate all essential issues – including those involving and arising from intelligence. Policymakers must often make important decisions based on imperfect information. Intelligence – in many cases – is imperfect. It involves complex judgments and assessments based on a variety of factors. For that reason, careful scrutiny and debate are essential. Such scrutiny and debate are not unlawful – they were even done within the CIA itself.

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[51] Levin Report, at 18.

[52] *Id.*

[53] *See* SSCI Report on Prewar Intelligence, at 305.

[54] *See* Levin Report, 18-19.

[55] *Id.* at 19 (noting that the CTC's "aggressive approach went beyond the traditional practice"). *See also* SSCI Report on Prewar Intelligence, at 305-06.

[56] SSCI Report on Prewar Intelligence, at 305.

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In this case, the IC officials with whom the DOD staff discussed *Iraqi Support for Terrorism* told the SSCI that the DOD staff's questions "contributed to a frank exchange of opinions."[57] The SSCI concluded that "policymakers probing questions . . . actually improved the [CIA]'s products."[58]

Levin Question Nine

"Did the OSD Policy briefing to the White House draw conclusions (or 'findings') that were not supported by the available intelligence, such as the 'intelligence indicates cooperation in all categories; mature, symbiotic relationship' [slide 7], or that there were 'multiple areas of cooperation,' and 'shared interest and pursuit of WMD,' and 'some indications of possible Iraqi coordination with al Qaida specifically related to 9/11' [slide 19]? (emphasis added)"

We explain below the basis on which the DOD staff's analysis of the intelligence led to different conclusions from those reached by the IC. However, we believe the context in which this information is evaluated by the Inspector General ("IG") merits comment. The question, as posed, invites a "second-guessing" of the judgment of DOD staff in the midst of the War on Terrorism and in the months preceding the Iraq War – when we knew less than what was learned later. The question before the IG now should not depend on whether IC analysts or their DOD critics were correct about the intelligence. Arguably, the DOD staff's conclusions were correct, but it was clear that the information available at that time could possibly support different conclusions. Whatever the conclusion about the underlying intelligence issue, we believe the DOD staff's critique cannot be viewed as improper or inappropriate when its analysis was within the bounds of proper comment. On that basis, we explain the basis for the DOD staff's actions below.

The available intelligence supports the claim that Iraq and al Qaida had a "shared interest and pursuit of [weapons of mass destruction] WMD." One of the conclusions in *Iraqi Support for Terrorism* states:

> The most disturbing aspect of the relationship is the dozen or so reports of varying reliability mentioning the involvement of Iraq or Iraqi nationals in al-Qa'ida's efforts to obtain CBW [chemical-biological weapons] training.[59]

Testifying before the SSCI in September 2002, DCI Tenet pointed to "evidence that Iraq provided al Qaida with various kinds of training – combat, bomb-making, and [chemical, biological,

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[57] SSCI Report on Prewar Intelligence, at 362.

[58] *Id.* at 34.

[59] SSCI Report on Prewar Intelligence, at 329.

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radiological and nuclear] CBRN."[60] Finally, the CIA concluded in the September 2002 version of *Iraqi Support for Terrorism* that "'[t]he general pattern that emerges is of al-Qa'ida's *enduring interest* in acquiring [CBRN] expertise from Iraq.'"[61]

The available evidence also supports an interpretation of "multiple areas of cooperation." In addition to the conclusions cited above, CIA reports also addressed Iraq's provision of safehaven to al Qaida.[62] The SSCI Report also concludes that the CIA "reasonably assessed that there were likely several instances of contacts between Iraq and al-Qaida throughout the 1990s."[63] These intelligence reports provide support for a finding of multiple areas of cooperation – even if "these contacts did not add up to an established formal relationship.[64] The DCI's testimony regarding the various forms of training in addition to the contacts and offers of safehaven also points to "cooperation in all categories."

The SSCI concluded that the various contacts "did not add up to an established formal relationship"[65] and the CIA's "assessment that to date there was no evidence proving Iraqi complicity or assistance in an al-Qaida attack was reasonable and objective."[66] However, exactly what constitutes a "mature relationship" is subjective and depends in part on the person's perspective.

The available intelligence regarding the alleged Atta meeting supported the language: "some indications of possible Iraqi coordination with al Qaida specifically related to 9/11." That language contained two key qualifications: (1) "some indications" and (2) "*possible* Iraqi coordination." It refers to the meeting as a "possible" contact. Given that the meeting had not been either proved or disproved,[67] the available intelligence supported a finding of "some indications" of a "possible" connection between Iraq and al Qaida.

It was not improper for DOD staff to come to conclusions different from those drawn by some members of the IC. It is not even unusual that different officials read the same intelligence differently. As discussed, there was a disagreement among intelligence analysts (not just between

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[60] *Id.*

[61] *Id.* (*quoting Iraqi Support for Terrorism* (Sept. 2002)).

[62] *Id.* at 334.

[63] *Id.* at 346.

[64] *Id.*

[65] *Id.*

[66] *Id.* at 347.

[67] The CIA assesses that it "likely never occurred." *See* Levin Report, at 41.

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intelligence and policy officials) during the preparation of one of the CIA's initial post-9/11 reports on Iraq-al Qaida ties, "*Iraq and al-Qaida: Interpreting a Murky Relationship.*" According to the SSCI Report, during the drafting of that paper the CIA's CTC and NESA offices "took different approaches to assessing Iraq's links to terrorism as a result of their different missions and perspectives." These two CIA offices disagreed to the point that the NESA analysts would not sign on to the final product.[68] One would not, though, conclude from this that the CTC analysts did something illegal or improper by preparing an analysis with which their colleagues disagreed. If such disagreements amounted to illegal or improper behavior, the implications for both policymakers and the intelligence community would be intolerable.

The DOD staffers worked on the intelligence with a different mission and perspective from that of the CIA. The DOD staffers were responsible for analyzing and recommending strategies and policies for U.S. action. Their job was to deal with risk. They looked at intelligence not just from the point of view of what the IC said was most likely the true picture, but also from the point of view of what would be the consequences of the President's erring on one side versus the other of a debatable issue. In other words, the CIA could say that al Qaida likely had a relationship with Iraq that was limited in various ways. Policy officials, however, had to worry about what might happen if we based our policy on that assessment and then learned later that the CIA had underestimated the extent of the relationship. It is noteworthy that (1) "the CIA acknowledged the poor intelligence collection on both the Iraqi regime and al-Qaida leadership";[69] (2) "any indication of a relationship between these two hostile elements [Iraq and al Qaida] could carry great dangers to the United States";[70] and (3) following 9/11, many policymakers were especially cognizant of the fact that the absence of evidence is not necessarily evidence of absence.[71]

Policy officials knew that the IC's collection efforts against both Iraq and al Qaida were limited and that a lot was unknown. At the same time, these officials saw reports of contacts. Even if those reports did not prove an "established formal relationship,"[72] it was reasonable – not illegal or improper – for policy officials to incline to accept less risk and conclude that a worrisome relationship existed. (Though it is not relevant to the question of whether the DOD policy officials acted properly at that time, there have been press and government reports that information contained in internal Iraqi documents obtained after the fall of Saddam's regime shows a more

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[68] SSCI Report on Prewar Intelligence, at 305, 306.

[69] *Id.* at 322.

[70] *Id.* at 305.

[71] *See e.g.*, Levin Report, at 20 (citing an OSP briefing slide making that point).

[72] *See* SSCI Report on Prewar Intelligence, at 346 (noting that the contacts between Iraq and al Qaida "did not add up to an established formal relationship.").

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substantial role of that regime in supporting terrorists, including al Qaida-related terrorists, than the IC reported in 2002.[73]

Levin Question Ten

"Did the OUSDP staff prepare, and did Under Secretary Feith send to the Secretary of Defense and the Deputy Secretary of Defense, a written critique of a report entitled *Iraq and al Qaida: Interpreting a Murky Relationship* prepared by the DCI's Counter Terrorism Center (CTC), stating that the 'CIA's interpretation ought to be ignored,' without providing the CIA notice or an opportunity to respond?"

The OUSDP staffer's analysis of the CIA report actually began by praising the report for its underlying intelligence. The OUSDP staff member then criticized the CIA's interpretation of the underlying intelligence, arguing that the interpretation "result[ed] in inconsistent conclusions in many instances."[74] Consequently, the OUSDP staff member argued that "the CIA report should be read for content only – and CIA's interpretation ought to be ignored."[75]

A member of the OUSDP staff prepared a briefing criticizing an intelligence report and shared it with her superior, Under Secretary Feith. He arranged for the briefing to be presented to his superiors, the Deputy Secretary and the Secretary of Defense. It would be unrealistic and damaging to contend that OUSDP personnel should not prepare such briefings for their superiors.

Additional Allegation

We shall now turn to an allegation that was *not* among those that Senator Levin asked the Inspector General to investigate. It warrants discussion because it has appeared in news reports – citing anonymous sources – as an instance of unlawful activity in which "Democratic staffers" on the SSCI are particularly interested.[76] The allegation is that the OUSDP, through two of its staff

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[73] *See e.g.*, Kevin M. Woods, *et. al.*, "Iraqi Perspectives Project: A View of Operation Iraqi Freedom from Saddam's Senior Leadership," at p. 53-54 (Joint Forces Command and the Institute for Defense Analyses, Mar. 2006) (*available at* http://www.foreignaffairs.org/20060501faessay85301/kevin-woods-james-lacey-williamson-murray/saddam-s-delusions-the-view-from-the-inside.html); *see also* Stephen F. Hayes & Thomas Joscelyn, "The Mother of All Connections," *The Weekly Standard*, Vol. 10, Issue 41, July 18, 2005.

[74] SSCI Report on Prewar Intelligence, at 308.

[75] *Id.*

members, engaged in "unlawful intelligence activity" when staff members met in Italy with foreign national members of Italy's foreign intelligence service but did not report the meeting either to the CIA or to congressional intelligence committees.

The meeting in Rome was not an intelligence activity, much less an unlawful one. The meeting in Rome was the kind of activity that DOD employees, military officers, and Foreign Service officers engage in routinely as part of their official business.

Shortly after 9/11 and the commencement of Operation Enduring Freedom, a private U.S. citizen told Deputy National Security Advisor Hadley that there were Iranian nationals who had information about possible future terrorist attacks against U.S. troops in Afghanistan that they wanted to share with the U.S. Government but not through intelligence channels. Mr. Hadley asked Deputy Secretary of Defense Wolfowitz to identify DOD employees who were suited to meet with the Iranians. Deputy Secretary Wolfowitz then sent two Farsi-speaking DOD civilians to meet with the Iranians in Rome. For a variety of reasons – including the unexpected presence at the meeting of a person who had become notorious in the Iran-Contra scandal -- Mr. Hadley, Deputy Secretary Wolfowitz and senior officials from the State Department and the CIA decided not to pursue further discussions with the Iranians. (The notorious figure was Manucher Ghorbanifar. Before the Rome meeting occurred, neither Hadley, Wolfowitz nor Feith knew that Ghorbanifar was involved.)

Although there is no legal definition of "intelligence activity," not every meeting between U.S. government personnel and foreign persons is considered an intelligence activity. If one wants to decide whether a meeting is an intelligence activity, perhaps one should look for such factors as whether the activity included a covert element or some level of deception, an element of collection, recruitment or "handling" of another agent, or payment for information.

In this case, there was no effort to recruit the Iranian nationals as agents. Nobody was paid for the information (the Iranians did ask for money at the meeting, but no U.S. official or employee knew about this in advance and the request was rebuffed). Moreover, the meeting was not covert. The Defense Department employees identified themselves as such, and the Iranians met with them specifically *because they worked for the Defense Department.*

Importantly, the Deputy National Security Advisor consulted *in advance* with the Deputy Secretary of State and the Deputy Director of the CIA about the meeting. Although the U.S. ambassador to Italy and the CIA station chief in Rome complained that they were not informed about the meeting, it was not the responsibility of the Defense Department to inform them.

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[76] *See e.g.*, Laura Rozen, "The Report They Forgot," *The American Prospect*, p. 22, Nov. 2005 (noting that Senator Rockefeller (D-WV) asserted in a press conference that the meeting, as well as other activities, may have been unlawful and citing to sources on the Armed Services Committee staff suggesting that the OUSDP had been engaged in "unlawful activities").

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The news reports about this meeting allege that the Defense Department violated the law by not reporting the meeting "in advance to the intelligence committee or the CIA."[77] The meeting was not an intelligence activity. But even if, *arguendo*, it is categorized as an intelligence activity, there is no law requiring such advance notification.

Congressional oversight of Executive branch intelligence activity is governed by statute.[78] In general, these provisions require "that the Congressional intelligence committees are kept fully and currently informed of intelligence activities of the United States."[79] The statute requires reporting of non-covert activities only in the case of either "significant anticipated intelligence activity"[80] or "illegal intelligence activities."[81] There is no requirement to report a legal, non-covert and non-significant, anticipated intelligence activity. The statute also distinguishes between keeping the committees generally informed of *past activity* and providing information in advance. The only suggestion of advanced notification is for significant *and* anticipated activity. Even in that context, however, the statute specifically states that Congressional approval is not required as a precondition to the *initiation* of the significant activity.[82] In any event, the reporting requirement is qualified. Notice is required only to the extent that it can be accomplished "with due regard for the protection from unauthorized disclosure of classified information relating to sensitive intelligence sources and methods or other exceptionally sensitive matters."[83] So the law contemplates situations where reporting on overt activities may be withheld from the intelligence committees.

The reporting requirements for covert activity are similar but more stringent.[84] The reporting requirements are irrelevant, however, for the meeting in Rome was not a covert activity. The statutory definition of "covert activity" is that the "intended . . . role of the United States Government will not be apparent or acknowledged publicly."[85] As noted, the DOD civilians

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[77] *Id.* ("The catch is that [the meeting] wasn't reported in advance to the intelligence committee or the CIA, in possible violation of Section 502 of the National Security Act, which says that anyone conducting intelligence activities must inform the committee and the agency."). Despite the language of the reporting, it is unclear whether the allegation involves a failure to provide the information in advance or failure to provide it at all.

[78] *See* 50 U.S.C. §§ 413, 413a, and 413b (West 2003).

[79] 50 U.S.C. §413(a)(1); *see also* 50 U.S.C. § 413a(a)(1) (stating the same).

[80] 50 U.S.C. §413a(b), (c) (establishing the form, content, and procedures for such reports).

[81] 50 U.S.C. § 413(b) ("The President shall ensure that any illegal intelligence activity is reported promptly to the congressional intelligence committees, as well as any corrective action that has been taken or is planned in connection with such illegal activity.").

[82] *See id.* § 413(a)(2) ("Nothing in this subchapter shall be construed as requiring the approval of the congressional intelligence committees as a condition precedent to the initiation of any significant anticipated intelligence activity.").

[83] *Id.* at § 413(a)

[84] *See* 50 U.S.C. § 413b(b), (c).

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participated in the meeting openly. Moreover, the statute explicitly excludes from the definition, *inter alia*:

> (1) [a]ctivities whose primary purpose is to acquire intelligence, traditional counterintelligence activities, traditional activities to improve or maintain the operational security of United States Government programs, or administrative activities;
>
> (2) traditional diplomatic or military activities or routine support to such activities;[86]

The collection of information to thwart terrorist attacks on U.S. troops in Afghanistan clearly falls under the second exception, if not both.

In any event, the meeting in Rome did not violate any of the statutory provisions even if it is categorized as an intelligence activity. Because the meeting was not a covert activity, the more stringent reporting requirements for covert activity were not applicable. The meeting also did not qualify as a "significant anticipated" activity requiring advanced notification. A simple meeting to obtain information and possibly establish a relationship that could produce more information in the future is so common that if it were categorized as "significant" under 50 U.S.C. 413, then an enormous number of meetings with foreigners by CIA, State, White House and DOD officials would fit within the same category.

Employees of numerous agencies throughout the government meet with foreign government officials and other foreign nationals to gather and exchange information on a daily basis. These include lower level officials all the way up through Cabinet Secretaries, the National Security Advisor, and the President. If the Rome meeting is considered a "significant intelligence activity," all of those meetings would have to be reported to the Congressional committees in advance or they would be deemed "unlawful." That would hamstring the Executive branch's day-to-day operations.

Conclusion

We believe when each of these issues is examined thoroughly and considered in the proper context, particularly in light of the facts known at the time of the events, it is clear that the activities undertaken by the Office of the Under Secretary of Defense for Policy during the relevant time frame were lawful, proper, and appropriate.

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[85] *Id.* § 413b(e).

[86] *Id.*

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[Whereupon, at 12:04 p.m., the committee adjourned.]

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