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Congress of the United States

House of Representatives

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October 28, 2005

The Honorable Tom Davis
Chairman
Committee on Government Reform
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

I have written you four times — on September 29, 2003,¹ on October 8, 2003,² on December 11, 2003,³ and on July 11, 2005⁴ — to request that our Committee, the principal investigative committee in the House of Representatives, hold hearings into the leak of the identity of covert CIA agent Valerie Plame Wilson.

In my letter of December 11, 2003, I explained that congressional hearings were essential because the outing of a covert CIA agent by White House officials raised broad questions of national interest that the criminal investigation by the Justice Department would not address.

The release of the indictment of I. Lewis “Scooter” Libby by Special Counsel Patrick J. Fitzgerald and Mr. Fitzgerald’s press conference today show that the concerns I raised with you were correct. Mr. Fitzgerald repeatedly underscored the narrow, legal focus of his investigation and the extensive limits placed on his ability to reveal what he learned by the rules of grand jury secrecy. The only way Congress and the public will learn the full facts of what transpired and their national security implications is if Congress fulfills its constitutional oversight responsibilities.

There are three areas that our Committee’s inquiry should address: (1) what caused this breach of national security and who should be held accountable; (2) why the White House failed to meet its obligations to investigate the leak and revoke the security clearances of those involved; and (3) how the leak of Ms. Wilson’s identity relates to the broader issue of whether

¹ Letter from Rep. Henry A. Waxman to Rep. Tom Davis (Sept. 29, 2003).

² Memorandum from Rep. Henry A. Waxman to Rep. Tom Davis (Oct. 8, 2003).

³ Letter from Rep. Henry A. Waxman to Rep. Tom Davis (Dec. 11, 2003).

⁴ Letter from Rep. Henry A. Waxman to Rep. Tom David (July 11, 2003).

The Honorable Tom Davis
October 28, 2005
Page 2

the President and his top advisors used misleading intelligence to launch an unnecessary war in Iraq.

Understanding the Leak

Mr. Fitzgerald's investigation raises more questions than it answers about the circumstances surrounding the leak of Ms. Wilson's identity. Our Committee should investigate the full range of relevant issues so that Congress and the public know the complete truth.

As I wrote to you on December 11, 2003, Ambassador Joe Wilson was in effect a government whistleblower. He and others have alleged that his wife was outed in retaliation for Ambassador Wilson's disclosures. Mr. Fitzgerald's investigation, however, does not answer whether the release of Ms. Wilson's identity was part of a concerted effort by senior Administration officials to intimidate a government whistleblower.

The indictment reveals that Vice President Cheney was involved in discussions about Ms. Wilson, yet it does not explain why those discussions occurred, what their purpose was, or what was said. When asked about Mr. Cheney's role in the press conference today, Mr. Fitzgerald pointedly refused to elaborate. Obviously, the involvement of the Vice President raises profoundly disturbing questions. We need to understand in detail what role Mr. Cheney played in this despicable incident.

There have been conflicting accounts in the press about what President Bush knew about the outing of Ms. Wilson and when he knew it. Some reports say that his top political advisor, Karl Rove, told the President early in the process about Mr. Rove's involvement. Other reports say that Mr. Rove lied to the President. Congress and the public have a right to know exactly what role the President and his top political advisor played in jeopardizing national security.

A point that I stressed in my prior communication with you is that there are executive orders and regulations that are designed to prevent the release of classified information, such as Ms. Wilson's identity. In this case, this system did not work. Our Committee needs to conduct an examination to know what went wrong and what reforms are needed to prevent future violations of our national security.

There are a host of other questions that the indictment and Mr. Fitzgerald's public statements do not answer about what happened and who should be held accountable. Only an investigation by Congress, which is not constrained by the rules of grand jury secrecy, can answer these questions.

Security Clearance Breaches

The Committee should also investigate why the White House took no action to suspend or terminate the security clearances of Mr. Libby and Mr. Rove once their unauthorized disclosures of classified information were revealed. Under Executive Order 12958, the President

is required to take “appropriate and prompt corrective action” to investigate security breaches and terminate the security clearances of employees who disclose classified information to individuals who are not authorized to receive it, whether those disclosures occurred “knowingly, willfully, or negligently.”⁵ Yet the White House did not take these actions, and Mr. Libby and Mr. Rove retained their security clearances. I have written to President Bush,⁶ his Chief of Staff Andrew Card,⁷ and his former National Security Advisor Condoleezza Rice⁸ about this important matter, but the White House has refused to respond to these questions.

In addition, the Committee should examine whether the Bush Administration applied a double-standard to protect Mr. Libby and Mr. Rove. Just this month, the Administration suspended the security clearances of two mid-level employees at the Department of Homeland Security. As the *Washington Post* reported, a Coast Guard employee and a Transportation Security Administration employee were alleged to have improperly “warned family and friends about a threat against the New York City subway system.”⁹ The Department did not wait for indictments or criminal convictions, but suspended their security clearances after obtaining preliminary evidence of their actions — in this case emails from their family members and friends — that indicated their involvement.

This afternoon, Mr. Fitzgerald explained that these types of questions were beyond his purview. As he stated: “The average American may not appreciate that there’s no law that specifically just says, if you give classified information to somebody else, it is a crime.” While these actions may not technically violate the criminal statutes Mr. Fitzgerald is examining, they do violate Executive Order 12958, and the Committee should investigate these breaches.

Iraq Intelligence

Finally, the Committee should examine how senior White House officials exaggerated and politicized intelligence about Iraq’s weapons of mass destruction in making their case for war against Iraq. In March 2004, I issued a comprehensive examination of statements made by the five Administration officials most responsible for providing public information and shaping public opinion on Iraq: President George Bush, Vice President Richard Cheney, Defense Secretary Donald Rumsfeld, Secretary of State Colin Powell, and National Security Advisor Condoleezza Rice. The report found that these five officials made misleading statements about

⁵ Executive Order 12958, sec. 5.5.

⁶ Letter from Rep. Henry A. Waxman to President George W. Bush (July 18, 2005).

⁷ Letter from Rep. Henry A. Waxman to White House Chief of Staff Andrew Card (July 14, 2005).

⁸ Letter from Rep. Henry A. Waxman to National Security Advisor Condoleezza Rice (Jan. 14, 2004).

⁹ *Two Federal Workers’ Clearances Revoked*, *Washington Post* (Oct. 19, 2005)

The Honorable Tom Davis
October 28, 2005
Page 4

the threat posed by Iraq in 125 public appearances. The report and an accompanying database identified 237 specific misleading statements by the five officials.¹⁰

Yet no congressional committee has ever held a hearing in which these Administration officials have explained why they made these misleading statements. Although Senator Pat Roberts promised that the Senate Intelligence Committee would investigate this issue, he postponed this review until after the presidential election in 2004, after which he cancelled the review entirely, concluding that “to go through that exercise, it seems to me, in a postelection environment, we didn’t see how we could do that and achieve any possible progress.”¹¹ Similarly, the Silberman-Robb Commission appointed by President Bush to examine intelligence on Iraqi weapons of mass destruction, explicitly excluded from its review the question of how top White House officials misused the intelligence they received.¹²

Conclusion

For the reasons outlined above, I believe the Committee has a fundamental obligation to initiate an investigation into the disclosure of Valerie Wilson’s identity. As a first step, the Committee should hold a hearing in which White House officials who have been implicated in this matter, including Mr. Rove, Ari Fleischer, Stephen Hadley, and, if he will agree to appear, Mr. Libby, are asked to testify about the full range of issues surrounding their roles in the unauthorized disclosures of Ms. Wilson’s position at the CIA.

It is important, of course, that we do not improperly interfere with any ongoing criminal proceedings. For this reason, I believe you and I should meet personally with Mr. Fitzgerald to discuss the scope of each of our investigations. In this way, I am certain that we can allow the criminal investigation to go forward while fulfilling our constitutional oversight obligations to investigate White House actions.

Sincerely,



Henry A. Waxman
Ranking Minority Member

¹⁰ *Iraq on the Record: The Bush Administration’s Public Statements on Iraq*, Minority Staff, Committee on Government Reform (Mar. 16, 2004) (online at <http://democrats.reform.house.gov/IraqOnTheRecord/>).

¹¹ *Senate Iraq Intelligence Probe Nears End*, Associated Press (Mar. 11, 2005).

¹² *Data on Iraqi Arms Flawed, Panel Says*, Washington Post (Apr. 1, 2005) (reporting that the President’s commission claimed it was “not authorized” to examine how the White House used the intelligence).