



Fact Sheet

INACCURACIES AND MISLEADING STATEMENTS IN THE STATE DEPARTMENT'S RESPONSE

Rep. Henry A. Waxman,
Chairman, Committee on Oversight and Government Reform

On October 15, 2007, Jeffrey Bergner, the Assistant Secretary of State for Legislative Affairs, wrote a letter to Rep. Henry A. Waxman, Chairman of the House Committee on Oversight and Government Reform. The letter was written in response to a letter sent on October 12 by Chairmen Waxman, Lantos, Skelton, and Obey protesting the State Department's recent efforts to classify public discussion of the endemic and worsening corruption within the government of Iraqi Prime Minister Nouri al-Maliki. The State Department letter contained numerous inaccuracies, some of which are described below.

State Department Claim #1: *"The Department of State has been fully cooperative in response to requests for information from the House Oversight and Government Reform Committee about the Department's anticorruption efforts in Iraq. We have provided all documents which the Committee has requested on corruption, and we have made available officials of the Department for interviews and testimony."*

The Facts: The State Department refused to provide witnesses or documents voluntarily, forcing the Committee to issue multiple subpoenas to obtain information pursuant to the Committee's investigation. Here is a chronology of the Committee's efforts to obtain documents and witnesses from the Department of State:

- September 10, 2007: The Oversight Committee sent a letter to Secretary of State Condoleezza Rice requesting copies of several reports prepared by the U.S. Embassy in Iraq and interviews with State Department experts on Iraqi corruption.
- September 14, 2007: The Deputy Assistant Secretary of State for Legislative Affairs informed the Oversight Committee that the State Department would not produce the requested reports.
- September 17, 2007: The Deputy Assistant Secretary informed the Oversight Committee that the State Department would not make officials available for voluntary interviews.
- September 20, 2007: The Oversight Committee issued four subpoenas to compel production of the reports and the appearance U.S. Embassy officials for interviews. Rep. Tom Davis, the Oversight Committee's Ranking Member, testified yesterday before the Rules Committee that he supported these subpoenas because the State Department was refusing to cooperate.
- September 25, 2007: The State Department finally produced four documents to the Oversight Committee in response to the subpoenas. These documents were retroactively classified to prevent the Committee from discussing their contents in public. At the same time, the Deputy Assistant Secretary informed Committee staff that the State

Department had identified "hundreds" of additional documents that were responsive to the subpoena, but they were in the process of being retroactively classified.

- October 16, 2007: As of today, the Oversight Committee has received zero additional documents in compliance with the Committee's subpoena.

State Department Claim #2: "[T]here is no Department 'directive' prohibiting officials from providing Congress any information relating to corruption in Iraq."

The Facts: There is a State Department directive, and it was sent to the Oversight Committee via e-mail at 6:55 p.m. on September 24, 2007, by the Deputy Assistant Secretary of State for Legislative Affairs. It has been enforced against State Department officials in both Committee staff interviews and public hearing testimony. The State Department directive stated that the following "redlines" are now classified:

Broad statements/assessments which judge or characterize the quality of Iraqi governance or the ability/determination of the Iraqi government to deal with corruption, including allegations that investigations were thwarted/stifled for political reasons.

According to the State Department's legal counsel, these redlines were given "to both the staff and witnesses [because we] feel we have to adopt a very bright-line rule in context to avoid potential slippage of classified information and unclassified contracts."

The State Department's legal counsel intervened repeatedly during interviews of State Department officials to prevent them from answering questions. The State Department counsel warned one witness "to stay within the classification guidelines that he has been given." When asked "How would you characterize the current state of corruption within the Iraqi Government," another witness said the State Department's legal counsel banned him from answering that question.

Last Friday, the State Department spokesman said that this directive applied only to two low-level officials. He failed to acknowledge that this directive was also enforced against Ambassador Lawrence Butler, the Deputy Assistant Secretary of State for Near Eastern Affairs, who testified before the Oversight Committee on October 4, 2007. Ambassador Butler was prevented from answering the following questions:

- Whether "the Government of Iraq currently has the political will or the capability to root out corruption within its Government";
- Whether "the Maliki Government is working hard to improve the corruption situation so that he can unite his country"; and
- Whether Prime Minister Maliki "obstructed any anticorruption investigations in Iraq to protect his political allies."

State Department Claim #3: *"Prior to the official publication of the GAO Report 'Stabilizing and Rebuilding Iraq: U.S. Ministry Capacity Development Efforts Need an Overall Strategy to Build Efforts and manage Risk,' the Department of State also asked GAO to mark as classified one reference in this report."*

The Facts: The State Department did not classify the GAO prior to its official publication. The GAO report was issued formally at the Oversight Committee's public hearing on October 4, 2007. Comptroller General David M. Walker brought dozens of copies of the report to the hearing and distributed them to members, the press, and the public. The report was made part of the official hearing record, and it was posted on the Committee's website. During the hearing, Mr. Walker was asked about the classification of this report. In response, he stated:

[M]y testimony is based on this report which the State Department had an opportunity to review and comment on, and they did not classify any of the information in this report which is the basis of my testimony. Secondly, I can understand why the State Department might have a concern if you were talking about specific individuals because, frankly, in our own country, we would probably have concerns about testifying with regard to ongoing investigations dealing with specific parties. But with regard to the broader challenge, itself, I think it would be over-reaching to try to classify discussions about the broader overall challenge.

When asked to confirm whether the State Department had received an opportunity to review GAO's report, Mr. Walker responded:

[W]e did submit it to them both for comment, which we do under generally accepted government auditing standards, and secondly also for sensitive review and classification review, and what you have before you is unclassified.

Despite the fact that the State Department had previously reviewed the GAO report and designated it as unclassified, GAO informed the Oversight Committee on October 5, 2007 — one day after the hearing — that "State informed us today that ... the GAO report is classified." GAO requested that the Oversight Committee "[p]lease secure the reports we provided the Committee." The Department allowed GAO to issue a revised report only after key passages discussing the enforcement of anticorruption laws by the Iraqi government were dropped from the report.