

**Additional Views
of
Senator Dianne Feinstein**

The flawed intelligence documented in the Committee's report presents a clear case that we need to restructure the Intelligence Community. As the Committee's report documents, intelligence contained in the 2002 National Intelligence Estimate (NIE), as well as in statements to Congress and the American people by the Administration regarding both Iraq's Weapons of Mass Destruction and ties to al-Qaida, were inaccurate. The doctrine of preemption inherently requires the Intelligence Community to be right every time on the nature and imminence of threats. In this case, the intelligence was flawed.

Three important judgments were made by intelligence analysts and contained in the NIE:

"We judge that Iraq has continued its weapons of mass destruction programs in defiance of United Nations resolutions and restrictions. Baghdad has chemical and biological weapons, as well as missiles with ranges in excess of United Nations restrictions. If left unchecked, it probably will have a nuclear weapon during this decade."

"We assess that Baghdad has begun renewed production of mustard, sarin, cyclosarin and VX. Its capability probably is more limited now than it was at the time of the Gulf War, although VX production and agent storage-life probably have been improved."

"We judge that all key aspects -- R&D, production and weaponization of Iraq's offensive BW program are active, and that most elements are larger and more advanced than they were before the Gulf War."

There were also many statements made by the administration that, when combined with the intelligence, created a very strong case that Iraq was a serious and immediate threat to American interests and America itself.

Let me give just five examples of such statements:

Secretary of State Powell, on September 8, 2002, said on Fox News Sunday: "There is no doubt that he has chemical weapons stocks." He also said: "With respect to biological weapons, we are confident that he has some stocks of those weapons, and he is probably continuing to try to develop more."

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President Bush, on September 12, 2002, said in his address to the U.N. General Assembly: "Right now, Iraq is expanding and improving facilities that were used for the production of biological weapons."

President Bush, in his October 7, 2002, address also said: "We know that the regime has produced thousands of tons of chemical agents, including mustard gas, sarin nerve gas, and VX nerve gas."

Secretary Powell, again in his February 5, 2003, address to the U.N. Security Council, said:

"Our conservative estimate is that Iraq today has a stockpile of between 100 and 500 tons of chemical weapons agent. That is enough agent to fill 16,000 battlefield rockets. Even the low end of 100 tons of agent would enable Saddam Hussein to cause mass casualties across more than 100 square miles of territory, an area nearly 5 times the size of Manhattan . . . when will we see the rest of the submerged iceberg? Saddam Hussein has chemical weapons. Saddam Hussein has used such weapons. And Saddam Hussein has no compunction about using them again, against his neighbors and against his own people."

President Bush said, on October 2, 2002, in Cincinnati: "Facing clear evidence of peril, we cannot wait for the final proof, the smoking gun that may come in the form of a mushroom cloud."

Neither the military examination of more than a thousand priority sites nor the interim findings of Dr. David Kay, and his successor, have produced evidence of weapons of mass destruction, the weaponization of chemical or biological elements, or their deployment to battlefield commanders. To date, the most likely prewar judgments of intelligence analysts have not been borne out.

Questions About Intelligence

There are four questions critical to understand what went wrong with the prewar intelligence assessments that must be answered:

The first is: Were the prewar intelligence assessments of the dangers posed by Saddam Hussein's regime wrong? This is not as simple a question as it seems, for in the months prior to the invasion of Iraq these assessments had two separate, equally important parts. Whether Iraq had the capability to place the United States in such danger as to warrant the unprecedented step of a unilateral preemptive invasion of another sovereign nation, and was such a threat imminent or was it grave and growing? Secretary Powell was asked if he would have recommended an invasion knowing Iraq had no prohibited

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weapons, and he replied: "I don't know because it was the stockpile that presented the final little piece that made it more of a real and present danger and threat to the region and to the world." He added: "The absence of a stockpile changes the political calculus; it had the changes the answer you get." Critical to this debate during the summer and fall of 2002 was the immediacy of the threat which supported the argument that we needed to attack quickly and could not wait to bring traditional allies aboard or to try other options short of invasion.

The second question is: Whether the intelligence assessments were bad as well as wrong?

This requires a fine distinction between an intelligence assessment that is wrong, and one that is bad. Intelligence assessments are often wrong, for by their nature they are an assessment of the probability that a future event will take place. But wrong does not always mean bad. Sometimes an intelligence assessment follows the right logic and fairly assesses the amount, credibility and meaning of collected data, and still is wrong.

The third question is: If the intelligence assessments were both bad and wrong, to what degree were they both bad and wrong, and why?

Did the intelligence community negligently depart from accepted standards of professional competence in performing its collection and analytic tasks? Was the intelligence community subject to pressures, personal or structural, which caused it to reach a wrong result through bad analysis? Were the ordinary internal procedures by which intelligence is subject to peer review properly carried out?

The fourth and final question is: Whether the intelligence assessments reached by the intelligence community, whether right or wrong, good or bad, were fairly represented to the Congress and to the American people. Did administration officials speaking in open and closed session to members of Congress accurately represent the intelligence product that they were relying upon? Were public statements, speeches, and press releases fair and accurate? This is the cauldron boiling below the surface.

This final question is particularly grave, because it touches upon the constitutionally critical link between the executive and legislative branches. The Founders knew what they were doing when they developed a shared responsibility for war making--only Congress can declare war, with the President, as Commander-in-Chief, conducting it--the need is vital for members of Congress to have fairly presented, timely and accurate intelligence when they consider whether to invest in the President the authority as Commander-in-Chief to put American lives, as well as those of innocent civilians, at risk.

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Answers to the Questions

My worst fears about the answers to these four questions have come true. In this case, the intelligence was both bad and wrong. To cite just one example of the issues contained in the Committee's report, the intelligence regarding mobile labs used to make biological weapons (BW) was not only wrong, but the assessments were bad. The conclusions of the biological section of the Committee's report uses the words, "is not supported by the intelligence," "overstated what was known," "did not accurately convey," and most disturbing, "the CIA withheld important information."

Secretary Powell, in his speech before the United Nations on February 5, 2003, used four sources to make the case about BW mobile labs: "Curveball," an Iraqi civil engineer, a third source, and an Iraqi National Congress (INC) fabricator. Secretary Powell laid out a graphic, detailed, and powerful case for Iraq's possession of a number of mobile biological production labs before the United Nations and the world based on four sources—all of which have proven to be false.

The bottom line is that the CIA gave Secretary Powell four sources that were not only wrong about the BW mobile trailers, but that also included bad assessments. Despite new information discrediting the sources, no reevaluation was made. A DOD detailee to the CIA who met with "Curveball," made several observations that raised questions about the reliability of "Curveball's" information. The detailee, after explaining his views, received an email from the Deputy of the CIA Counter Proliferation Unit which said:

"As I said last night, let's keep in mind the fact that this war's going to happen regardless of what Curveball said or didn't say, and the Powers That Be probably aren't terribly interested in whether Curveball knows what he's talking about. However, in the interest of Truth, we owe somebody a sentence or two of warning, if you honestly have reservations."

This must never be allowed to happen again, and there must be a process that ensures that a source is sufficiently vetted and evaluated prior to a determination that the source's information is actionable intelligence. The first overall conclusion of the WMD section of the Committee's report sums this up by stating:

"Most of the major key judgments in the Intelligence Community's October 2002 National Intelligence Estimate (NIE), Iraq's Continuing Programs for Weapons of Mass Destruction, either overstated or were not supported by the underlying intelligence reporting. A series of failures, particularly in analytic tradecraft, led to the mischaracterization of the intelligence."

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The answer to the third question of why the pre-war intelligence was both bad and wrong is based in both structural and functional failures within the Intelligence Community. The Committee's report proves, beyond all doubt, that the present arrangement of collection and analysis between agencies and departments must change.

The functional flaws in the Intelligence Community include the absence of any or adequate "red teaming" and peer review—a procedure to reconcile differing departmental and analytical views in the formation of the NIE. For example, in the review of the aluminum tubes, Department of Energy analysts, the acknowledged experts in nuclear technology, found that the aluminum tubes were not suitable for a nuclear program, and the State Department's analysts agreed. However, CIA and Defense Intelligence Agency (DIA) analysts believed these items were intended to be used for a nuclear program. Despite the fact that the acknowledged experts disagreed, the NIE included the faulty analysis of CIA analysts, with DIA concurring, in its key judgments.

At the very least, a robust peer review process within the Intelligence Community would have described the disagreement between analysts on the aluminum tube issue within the key judgments, instead of siding with one analysis over the other. A strong peer review process would have prevented any key judgment based on the aluminum tube issue from being included in the NIE. The Intelligence Community should have performed further, detailed analysis of this subject to try to achieve a consensus. Then, all analysts involved would have had a better understanding of the details and perspective involved, even if the Intelligence Community could not resolve all of the differences.

I think it is clear that there was not an ongoing nuclear program. In August of 2002, prior to the vote in the Senate on the authorization to go to war, I spent a day in Vienna at the International Atomic Energy Agency (IAEA). The IAEA is the agency that runs nuclear inspections; they saw no signs of a nuclear program in Iraq. The IAEA convinced me that there was no on-going nuclear program in Iraq. The intelligence reporting on a possible Iraqi nuclear program did not have an impact on me, because I did not believe it was correct.

There was a similar problem with the analysis of the Iraqi small Unmanned Aerial Vehicle (UAV) program. The Air Force analysts who had the expertise in this area said the UAVs could be used to deliver biological agents, in the same sense that all aircraft could, but that the most likely mission for the small UAVs was as aerial targets or for reconnaissance missions. However, their analysis was ignored, and the NIE used an assessment based on conjecture instead of scientific analysis when it said these UAVs could be used for biological or chemical delivery purposes. For future NIEs, peer review should occur on a least three levels: first, within each agency, where analysts should be encouraged to express contrarian views; second, between agencies, such as between the CIA and the Department of Energy on the aluminum tubes issue; third, between allied and

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trusted foreign intelligence; and forth, with international agencies such as the International Atomic Energy Agency.

Virtually every time there was a difference of views between agencies, the CIA's views prevailed. Because of the structural flaws in the current Intelligence Community, this is a predictable result that explains, but does not excuse, the failures of the pre-war intelligence.

Before explaining my views on structural reforms for the Intelligence Community, the fourth question must be answered—whether the intelligence assessments reached by the Intelligence Community, whether right or wrong, good or bad, were fairly reported to the Congress and to the American people.

Without transparency into the intelligence process, and without rigorous peer review, it is difficult to fully assess how objective the assessments and conclusions were in the NIE. The Committee's report did not just highlight one or two issues where intelligence was changed to reach a conclusion to go to war. Instead, the Committee's report documents that EVERY time a judgment changed in the 2002 NIE from previous assessments, the new judgments were more threatening and more dire to the security of the United States. The Committee's report makes clear that the facts gathered by intelligence in 2001 and 2002 did not support the threatening changes to the analysts assessments. So how did these changes occur? The Committee's report explains the changes as "layering" of previous assumptions, "groupthink" about ambiguous evidence, and a "broken corporate culture and poor management." I agree that those caused the intelligence to be both bad and wrong. However, the Committee's report does not acknowledge that the intelligence estimates were shaped by the Administration. In my view, this remains an open question that needs more careful scrutiny.

The Committee's report did find that analysts were repeatedly questioned and asked to find links between Iraq and al-Qaida to make the Administration's case. In fact, the CIA Ombudsman for Politicization reported to the Committee that "several analysts gave the sense that they felt the constant questions and pressures to reexamine issues were unreasonable." Further, as stated in the Committee's report, the Committee staff interviewed Mr. Richard Kerr who said, "in this case I talked to people who felt that there was more pressure than they thought there should have been . . . they felt that they were being pressured and questioned about their analysis." Although the Committee's report states that no analysts said that he or she changed their conclusions due to pressures, Mr. Kerr when asked about why analysts had not spoken to the Senate Intelligence Committee review team, said the following:

Mr. Kerr: "There's always people who are going to feel pressure in these situations and feel they were pushed upon."

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Committee Interviewer: "That's what we've heard. We can't find any of them, though."

Mr. Kerr: "Maybe they are wiser than to come talk to you."

The Committee's report found "that CIA analysts are trained to expect questions from policy makers, and to tailor their analysis into a product that is useful to them." I don't agree. There is a difference between repeated questioning and badgering in the form of persistent questioning. There is a difference between tailoring a product to a specific issue area and shaping a conclusion to fit what a policymaker wants to hear. It is important to note that the Committee found persistent questioning of analysts only in the terrorism section. Why didn't the Committee see evidence of this repeated questioning on the issues of WMD where there clearly was a difference of opinion on aluminum tubes and UAVs? Perhaps the CIA pleased the Administration with their WMD conclusion, but did not please them when they could not prove a terrorism connection. The Administration persistently questioned the CIA about ties between Iraq and al-Qaida, and then oversold the imminent need for war to the Congress and American public on the basis of these alleged ties.

The answer to the fourth question is that the Administration did not fairly represent the intelligence. There are a number of specifics that are enumerated in the Vice Chairman's additional views which adequately document this. Unless Administration officials, from the President on down, had information not made available to the Senate Intelligence Committee, there was clearly an exaggeration of either an "imminent" or "grave and growing" threat to the American people.

Director of National Intelligence

The Congress must act, and should act now, to begin fixing the faulty structure of the Intelligence Community and begin by taking a single, critical step: Pass legislation creating a Director of National Intelligence.

Establishing this position is one of the most important recommendations by the Joint Congressional Inquiry on 9/11, which examined the dysfunctional structure of an Intelligence Community comprising 15 separate agencies, which costs tens of billions of dollars annually and is plagued by territorial battles.

Currently, one person leads the Central Intelligence Agency and at the same time nominally oversees the entire Intelligence Community. But he has only limited budgetary and management authority over the myriad agencies that range from the CIA and DIA to the National Reconnaissance Office, the National Geospatial Intelligence Agency, and the



National Security Agency. In fact, 80 percent of the intelligence budget is under the control of the Secretary of Defense.

I have introduced legislation, co-sponsored by Senators Snowe, Rockefeller, Lott, Graham, Mikulski, and Wyden, that creates a true head of our 15 intelligence agencies with both the budgetary and statutory authority that the current structure does not provide. A new Director of National Intelligence would be responsible for leading the entire Intelligence Community. Working within an independent office, aided by a Deputy Director of National Intelligence and equipped with meaningful budget and personnel authority, this Director would provide the focused, independent and powerful leadership the Intelligence Community badly needs.

The CIA would retain its role as the central analytic element of the Intelligence Community and the lead agency for human intelligence, and it would have its own full-time Director.

Important issues for the DNI to consider include:

- assessing the balance between expensive technical collection platforms, such as satellite systems, and human-source collection and analysis;
- developing mechanisms to enhance our ability to collect foreign intelligence within the United States;
- setting the priorities and strategies in a new non-state asymmetric world;
- evaluating and implementing a human intelligence capability with language and cultural knowledge in critically important areas; and
- reforming the analytic process to ensure effective peer review and analytic integrity to prevent the use of false intelligence in policy making.

The current structure of our Intelligence Community is a relic of last century's conflicts. It is a Cold War solution to Cold War problems. In fact, the structure dates to the 1947 passage of the National Security Act.

I believe the intelligence failures in the past years, including those leading to the 9/11 attacks and the largely erroneous analytic conclusions about weapons of mass destruction in Iraq, are in a great part the result of this outdated structure.

Saddled with a Soviet-era structure in a post-Soviet world, it is not surprising that we are losing the intelligence battle against non-state actors who practice asymmetric



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warfare. Nor should be it be unexpected that many of the members of the Intelligence Community, including the CIA, FBI and National Security Agency, are struggling to understand, infiltrate and analyze the non-Western, Islamic world in which we must now defend ourselves.

Some have argued that the changes I recommend would damage the ability of those elements of the Intelligence Community with a combat-support mission (such as the National Security Agency) to serve their primary customers, who are the war-fighters. I disagree. The Secretary of Defense will lose none of his ability to levy requirements on the Intelligence Community -- after all, whatever the leadership structure, the Pentagon will always be, after the President, the Intelligence Community's biggest customer. Additionally, the legislation also includes language permitting and recommending that the President appoint a military official to a senior position in the office of the Director of National Intelligence.

Others, George Tenet among them, have argued that a Director of National Intelligence, removed from his "troops" at CIA, will be powerless. I believe this argument misses the point -- the Director of National Intelligence will derive his power from his statutory, budgetary, and personnel authorities, and, to no small degree, his relationship with the President.

The bottom line is that leading the U.S. Intelligence Community is a full-time position and, if it is to be done right, we cannot expect the person holding that responsibility to run a separate agency simultaneously.

It is time to put somebody in charge of the entire Intelligence Community and give him the authority to accomplish the job.

Doctrine of Preemption

We must learn a great lesson from this experience: the doctrine of preemption is flawed. Unilateralism and preemption and an over-reliance on the military dimension of U.S. power may well be leading us in a direction that weakens, rather than strengthens, our ability to meet the challenges of the new asymmetric world. I fear that our current foreign policy is adding thousands to the terrorist movements across the globe.

Without the imminent threat of weapons of mass destruction or evidence of a clear threat, Iraq appears not to have been a preemptive war to prevent an attack by the government of Iraq against either America or American interests; rather, it was America's first preventive war, the purpose of which was to topple the regime of Saddam Hussein. Preventive war targeted against speculative threats is not legitimate under international law.

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It's critical that, even with our focus on Iraq, we don't lose focus on the ongoing war on terror, where preemption may be both justified and necessary. Al-Qaida is still active recruiting, organizing, and in places, merging with other terrorist organizations. American interests at home and abroad remain vulnerable to asymmetric attack. And by shifting the focus of the war on terror from al-Qaida to Iraq, we must not allow al-Qaida to recuperate and strike again.

By endorsing unilateralism and preemption, we may well be paving the way for others -- China, Russia, India, Pakistan, North Korea -- to likewise adopt these same policies to carry out their national aspirations. As Henry Kissinger put it, "It's not in America's national interest to establish preemption as a universal principle available to every nation." And I agree. But by walking away from or undermining effective multilateral institutions, by alienating friends and allies, the United States may well find itself with fewer options at its disposal and fewer friends to help us out.

For the past half century, our country has embraced international cooperation, not out of vulnerability or weakness, but from a position of strength. The United States has the right to carry out military strikes against terrorists who would strike us, and there should be no doubt that we will. But many of the threats and problems we face today may not be effectively countered simply with the blunt application of military force. Diplomacy, treaties and robust foreign assistance programs have important roles to play if we are to be successful in meeting today's foreign policy challenges. A world in which no nation is bound by treaties or international accords, and in which might makes right, is not a world where the United States is better off. Our strength as a nation emanates not just from our power, but also from our moral stature and our principled stand for truth, for justice and for freedom.

Summary

The Senate vote on the resolution to authorize the use of force in Iraq was difficult and consequential based on hours of intelligence briefings from Administration and intelligence officials, as well as the classified and unclassified versions of the National Intelligence Estimates. It was based on trust that this intelligence was the best our Nation's intelligence services could offer, untainted by bias, and fairly presented. In this case it was not.