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**Additional Views
of
Senator Richard Durbin**

I voted in favor of this report because I believe that it makes a valuable contribution to our understanding of prewar intelligence related to Iraq. However, this report should be considered incomplete as the Committee's inquiry is far from finished.

In February of this year, the Committee voted to expand the scope of its inquiry to look into other essential aspects of intelligence related to the recent war in Iraq: (1) the collection of intelligence on Iraq from the end of the Gulf War to the commencement of Operation Iraqi Freedom; (2) 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; (3) the postwar findings about Iraq's weapons of mass destruction (WMD) and weapons programs and links to terrorism and how they compare with prewar assessments; (4) prewar intelligence assessments about postwar Iraq; (5) any intelligence activities relating to Iraq conducted by the Pentagon's Policy Counterterrorism Evaluation Group (PCTEG) and the Office of Special Plans within the Office of the Under Secretary of Defense for Policy; and (6) the use by the Intelligence Community of information provided by the Iraqi National Congress (INC). Hopefully, a thorough review of these issues will be completed and the Committee will issue a report on this second phase of our inquiry before Congress adjourns later this year.

While, on balance, I endorsed the report on the first phase of the Committee's inquiry into prewar intelligence on Iraq, I have several concerns regarding this document:

Accountability

The report appropriately identifies problem areas in the Intelligence Community's analysis and reporting relating to prewar intelligence on Iraq. However, I am concerned that the report does not cite responsibility more broadly for the intelligence failures related to Iraq. For example, the first overall conclusion in the report's WMD section states that "[a] series of failures, particularly in analytic tradecraft, led to the mischaracterization of the intelligence." While failures in analytic tradecraft are a significant part of the problems identified in this inquiry, responsibility for prewar intelligence related to Iraq is much broader. It's apparent that policymakers throughout the Executive Branch should have been more diligent in inquiring about the validity of Intelligence Community analytical assumptions and assessing the adequacy of intelligence collection and reporting related to Iraq WMD prior to the recent war.

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There is little in this report about policymakers questioning intelligence reporting related to Iraq WMD beyond Secretary of State Powell's examination of Iraqi intelligence in preparation for his February 2003 speech before the U.N. Security Council. But we know that dissenting or cautionary views regarding Iraq's WMD programs as contained in the October 2002 National Intelligence Estimate (NIE), *Iraq's Continuing Programs for Weapons of Mass Destruction* -- by the Department of Energy and State/INR regarding nuclear matters, and the Air Force regarding Unmanned Aerial Vehicles (UAVs) -- seemed to elicit comparatively few questions by policymakers. Analysis related to terrorism, which cited weak connections between Iraq and al-Qa'ida, elicited far greater questioning from policymakers. Undoubtedly, this was because the Administration had already decided to invade Iraq, and the WMD intelligence analysis supported that objective, while the terrorism analysis did not. It is a significant shortcoming of this report that the Committee did not undertake to interview senior policymakers to gain their perspective on prewar intelligence related to Iraq -- as well as the nature and extent of their interactions with Intelligence Community analysts.

The responsibility for problems related to prewar intelligence regarding Iraq should not be confined to intelligence analysts and their managers in the Intelligence Community, but to policymakers as well -- particularly those policymakers at the Department of Defense, the Department of State, the National Security Council and the White House. Nor should the intelligence oversight committees of the Congress, which are supposed to scrutinize intelligence analysis as part of their oversight mandate, be excluded from criticism. Former Deputy Director of Central Intelligence Richard J. Kerr, who conducted a review of prewar intelligence related to Iraq at the request of DCI Tenet, told the Committee:

If I were a Senator not on the oversight committee, I'd say you guys failed. What happened here? Why didn't you know more about this -- you, the Senate Select Committee -- which are our eyes and ears on intelligence? What did you do to deal with the issue? What did you do to systematically look and see if the resources were appropriate or the subjects were appropriate? ...I'm just saying you have an obligation there too.

I am also concerned that there are several instances in the report where the CIA -- and the Director of Central Intelligence in particular -- are either faulted for failings that should be shared by others, or are treated too harshly. For example, the section of the report dealing with allegations related to the Niger uranium issue contains a conclusion that "[t]he DCI should have taken the time to read the State of the Union speech and fact check it himself. Had he done so, he would have been able to alert the National Security Council if he still had concerns about the use of the Iraq-Niger uranium reporting in a Presidential speech."

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As the senior White House official in charge of vetting national security issues for the President's January 2003 State of the Union address, Deputy National Security Advisor Stephen Hadley led the interagency coordination and clearance process that produced the President's speech. It is in this capacity that the Deputy National Security Advisor could have prevented the language on the uranium reporting from being included in the State of the Union address. Approximately four months earlier, prior to the President's October 2002 Cincinnati speech, DCI Tenet telephoned Deputy National Security Advisor Hadley directly and asked that similar language be removed from that public speech. Mr. Hadley, along with Director Tenet, has publicly accepted responsibility for the State of the Union incident. If the Committee is insistent on faulting Director Tenet for this incident, in fairness, it should have faulted Mr. Hadley as well.

Similarly, I think the report is unduly harsh on the CIA in a conclusion in the overall WMD conclusions section which states: "[t]he CIA, in several significant instances, abused its unique position in the Intelligence Community, particularly in terms of information sharing, to the detriment of the Intelligence Community's prewar analysis concerning Iraq's weapons of mass destruction programs." It's one thing to fault the CIA for lack of information sharing, but it seems excessive to charge them with abuse. Several other conclusions in this section of the report paint their criticism with too broad a brush. For example, the report criticizes the Intelligence Community for having a "broken corporate culture" and faults the CIA for needing "dramatic changes in a risk averse corporate culture" when it comes to undertaking difficult HUMINT operations -- at a time when numerous intelligence officers are bravely serving in dangerous conditions around the world. Rather than make these sweeping condemnations, we need to devote more time and effort to understand why things went wrong regarding prewar intelligence on Iraq.

Pressure

The report's first WMD pressure conclusion notes that "[t]he Committee did not find any evidence that Administration officials attempted to coerce, influence or pressure analysts to change their judgments related to Iraq's WMD capabilities." The conclusion section goes on to describe two analysts who related to the Committee episodes that they believed constituted pressure. It turned out that those episodes were unrelated to Iraq. Our inquiry should have ended there. Instead, in the case of a Department of State/INR analyst, the conclusion section in the report rebukes the analyst for the temerity of raising a policy question with a State Department Under Secretary, on a matter outside the scope of our inquiry. Furthermore, the Committee's reproach is based on little knowledge about the actual incident, not having interviewed all the individuals and reviewed all the documents involved. This knowledgeable analyst was cooperative with our inquiry, appearing several times for interviews, and provided useful insights into analysis related to Iraq's WMD programs -- which were extensively incorporated into the Committee's report. To treat someone in such a gratuitous fashion, particularly in a widely

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disseminated report, does not enhance the likelihood that Intelligence Community personnel will be willing to cooperate with the Committee in the future.

The President's Summary of the NIE

Concurrent with the production of a National Intelligence Estimate is the production of a one page President's Summary of the NIE. A one page President's Summary was completed and disseminated for the October 2002 NIE, *Iraq's Continuing Programs for Weapons of Mass Destruction*, though there is no mention of this fact in the report. These one page NIE summaries are drafted by members of the National Intelligence Council's Analysis and Production Staff and are based on and consistent with the NIE. They are, however, written exclusively for the President and senior policymakers and are therefore tailored for that audience. Unlike NIE Key Judgments which are coordinated by agency representatives, President's Summaries are coordinated by the National Foreign Intelligence Board principals.

In denying the Committee's request for a copy of the President's Summary of the October 2002 NIE, the CIA stated that "we will not provide any materials written exclusively for the President or for the PDB [President's Daily Brief] readership." However, the Committee has also been informed by the CIA that 80 copies of the President's Summary were distributed to the White House -- indicating that the document was not intended "exclusively" for the President, and apparently far exceeding the PDB readership at the White House. The President's Summary contains no intelligence beyond that contained in the widely disseminated NIE, and does not set forth policy advice that could be considered privileged.

While the Committee staff were permitted to take notes from the President's Summary, the full document should have been provided to the Committee. Furthermore, there is no reason the President's Summary should not be declassified in its entirety and publicly released. In determining what the President was told about the contents of the NIE dealing with Iraq's weapons of mass destruction -- qualifiers and all -- there is nothing clearer than this single page.

Administration officials' claims regarding Iraq

In his January 2002 State of the Union speech, the President identified Iraq, along with North Korea and Iran, as part of an "axis of evil." As the year progressed, it became clear from Administration public statements regarding Iraq's WMD programs that Iraq was considered a growing threat to the U.S. that should be addressed through military action.

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- June 1, 2002 -- In a graduation speech at West Point, President Bush stated: “[o]ur security will require all Americans to be forward-looking and resolute, to be ready for pre-emptive action when necessary to defend our liberty and to defend our lives.”
 - August 26, 2002 -- In a speech before the Veterans of Foreign Wars’ National Convention in Nashville, Tennessee, Vice President Cheney stated: “Many of us are convinced that Saddam will acquire nuclear weapons fairly soon. ...Simply stated, there is no doubt that Saddam Hussein now has weapons of mass destruction. There is no doubt he is amassing them to use against our friends, against our allies, and against us. ...As former Secretary of State Kissinger recently stated, the imminence of proliferation of weapons of mass destruction, the huge dangers it involves, the rejection of a viable inspection system and the demonstrated hostility of Saddam Hussein combine to produce an imperative for preemptive action.”
 - September 8, 2002 -- In an interview on FOX News Sunday, Secretary of State Colin Powell stated that: “[t]here is no doubt that he has chemical weapons stocks... 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... With respect to nuclear weapons, we are quite confident that he continues to try to pursue the technology that would allow him to develop a nuclear weapon... So there’s no question that he has these weapons...”
 - September 8, 2002 -- In an appearance on NBC’s “Meet the Press”, Vice President Cheney stated: “...the more recent developments have to do with our now being able to conclude, based on intelligence that’s becoming available, some of it has been made public, more of it hopefully will be, that he [Saddam Hussein] has indeed stepped up his capacity to produce and deliver biological weapons, that he has reconstituted his nuclear program to develop a nuclear weapon, that there are efforts under way inside Iraq to significantly expand his capability. ...He [Saddam] has and continues to conduct himself in a way that is fundamentally threatening to the United States. Now, if he doesn’t have any significant capability, you don’t have to worry about it. He’s just a blow hard out in Iraq. ...[W]e believe that he is a danger, a fundamental danger, not only for the region but potentially the United States, as well. And I say, a lot of that is based on the evidence that’s now available, that he is working actively to improve his biological weapons program and his nuclear weapons program.”

The Background to the October 2002 NIE

Because of the Administration’s growing drumbeat regarding the threat posed to our country by Iraq -- and the Administration’s apparent determination to address this

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perceived threat by military force -- I wanted to know what the Intelligence Community's coordinated assessment was of the threat posed by Iraq.

As a Member of the Senate Select Committee on Intelligence (SSCI), I was concerned that Administration statements were painting a more ominous view of Iraq's threat to the United States than was reflected in the intelligence analysis. We rely on the Intelligence Community to make the most thorough and unbiased analytical assessment of threats facing our country. I was particularly concerned that neither the Intelligence Community nor policymakers in the Administration had initiated the production of a National Intelligence Estimate (NIE) on Iraq's WMD programs. NIEs are the Director of Central Intelligence's most authoritative written judgments concerning national security issues. They contain the coordinated judgments of the Intelligence Community regarding the likely course of future events. I believed that as part of the on-going national debate on the nature and extent of the threat to the U.S. posed by Saddam Hussein, policymakers in both the Executive Branch and the Congress would benefit from the production of a coordinated, consensus analytical document produced by all relevant components of the Intelligence Community on the status of Iraq's WMD infrastructure.

On September 9, 2002, I sent a letter to Director of Central Intelligence George Tenet requesting that he "direct the immediate production of a National Intelligence Estimate [NIE] assessing the current and projected status -- over the next 10 years -- of Iraq's weapons of mass destruction capabilities. This NIE should include, but not be limited to, an assessment of Iraqi capabilities in the areas of biological weapons, chemical weapons, nuclear and radiological weapons, ballistic missiles and other systems capable of delivering weapons of mass destruction and any basis for believing that Iraqi leaders would share these weapons with terrorist groups, such as al-Qaeda." I also requested that an unclassified summary of this NIE be produced "so the American public can better understand this important issue." Senate Select Committee on Intelligence Chairman Bob Graham sent a letter dated September 10, 2002 to DCI Tenet requesting, among other things, the production of an NIE on Iraq's WMD programs. Other SSCI colleagues subsequently echoed this request for an NIE.

During the weeks of September 2002 when the NIE was being produced, the Administration continued its alarmist rhetoric regarding the threat posed to the U.S. by Iraq's WMD, and what the Administration was likely to do to address this threat:

- September 12, 2002 -- In a speech before the United Nations General Assembly, President Bush stated: "...We know that Saddam Hussein pursued weapons of mass murder even when inspectors were in his country. Are we to assume that he stopped when they left? The history, the logic, and the facts lead to one conclusion: Saddam Hussein's regime is a grave and gathering danger. To suggest otherwise is to hope against the evidence. To assume this regimes's good faith is

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to bet the lives of millions and the peace of the world in a reckless gamble. And this is a risk we must not take.”

- September 17, 2002 -- President Bush approved his Administration’s National Security Strategy (released on September 20, 2002), outlining a policy of preemption to deal with rogue states and terrorists harboring weapons of mass destruction. The Strategy states: “[t]he United States has long maintained the option of preemptive actions to counter a sufficient threat to our national security. The greater the threat, the greater is the risk of inaction -- and the more compelling the case for taking anticipatory action to defend ourselves, even if uncertainty remains as to the time and place of the enemy’s attack. To forestall or prevent such hostile acts by our adversaries, the United States will, if necessary, act preemptively.”
- September 18, 2002 -- In testimony before the House Armed Services Committee, Chairman of the Joint Chiefs of Staff, General Richard Myers stated: “...let me just add that when you think about Iraq developing nuclear weapons, and the fact that they have an active ballistic missile production program, that when you put those two things together, you have to be very, very worried, like the secretary says. And I would say that it makes a very bad strategic situation, given that he has chemical and biological weapons, it makes a very, very bad strategic situation for his neighbors much worse.”
- September 19, 2002 -- In open testimony before the Senate Armed Services Committee, Secretary of Defense Rumsfeld stated: “He [Saddam] has amassed large clandestine stockpiles of biological weapons, including anthrax, botulism toxin, and possibly smallpox. He has amassed large clandestine stockpiles of chemical weapons, including VX, sarin, and mustard gas. His regime has an active program to acquire nuclear weapons. His regime has dozens of ballistic missiles and is working to extend their ranges, in violation of U.N. restrictions. He has in place an elaborate organized system of denial and deception to frustrate both inspectors and outside intelligence efforts. ...We do know that the Iraqi regime has chemical and biological weapons of mass destruction, that they’re pursuing nuclear weapons, that they’ve a proven willingness to use those weapons... ...We do know that Saddam Hussein has been actively and persistently pursuing nuclear weapons for more than 20 years, but we should be just as concerned about the immediate threat from biological weapons. Iraq has these weapons.”
- September 20, 2002 -- At a White House press briefing, White House Spokesman Ari Fleischer stated: “[n]o nation represents the threat to peace on earth the way Iraq does because of its attempt to get weapons of mass destruction and because of

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its militaristic recent history, where it has shown a willingness and an ability to invade its neighbors and attack its neighbors. No other nation is like that.”

- September 28, 2002 -- In a radio address to the nation, President Bush stated: “[t]he danger to our country is grave and it is growing. The Iraqi regime possesses biological and chemical weapons, is rebuilding the facilities to make more and, according to the British government, could launch a biological or chemical attack in as little as 45 minutes after the order is given.”

It was clear from such comments that Administration policymakers were not looking for the Intelligence Community’s consensus conclusions regarding Iraq’s WMD programs -- the President, the Vice President, Secretary of Defense Rumsfeld and General Myers had already reached their own conclusions, including that the U.S. needed to go to war to neutralize the perceived Iraqi threat. An analyst informed the Committee that a subtext for Intelligence Community analysts’ approach to producing the October 2002 NIE was that a decision had, in his view, already been made by the Administration to go to war against Iraq:

I would also say that this NIE was written -- the going-in assumption was we were going to war, so this NIE was to be written with that in mind. We were going to war, which meant American men and women had to be properly given the benefit of the doubt of what they would face.... ...That was what was said to us. We’re going to war. This is about going to war and giving the combatant commander an estimate on which he can properly organize. ...Remember, the conops [concept of operations] had already been published. ...[Y]ou have to understand that from an executive branch [perspective,] it’s about planning. The conop order had been given months before, months. Deployments had already begun.

After the completed NIE was delivered to the Committee on October 1, 2002, I reviewed the Estimate and attended several hearings and briefings by Intelligence Community officials regarding the information contained in the document. While I was certainly concerned about the threat posed by Iraq’s WMD programs as described by the Intelligence Community, I was not at all convinced that Iraq posed an imminent threat to our nation. And to my knowledge, no U.S. Intelligence Community analyst or official suggested at the time that Iraq’s WMD programs posed an imminent threat to the United States. For example, I noted that there was not a consensus among Intelligence Community components regarding the most potentially threatening element of Iraq’s WMD infrastructure -- Iraq’s nuclear program. The Department of Energy, which retains the greatest Intelligence Community expertise regarding nuclear programs, along with the Department of State’s Intelligence and Research Bureau (INR), did not agree that

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Baghdad's pursuit of aluminum tubes was related to a uranium enrichment effort as part of a nuclear weapon program, but was more likely intended for conventional weapons uses.

On October 3, 2002, the Senate began debate on S.J.Res. 45 "to authorize the use of military force against Iraq." Because I believed there was a paucity of intelligence, as reflected in the NIE, that Iraq's WMD programs posed an imminent threat to the U.S. -- and certainly not to the level of urgency as was reflected by Administration statements, I offered an amendment to the resolution on October 10 which would have authorized the use of military force against Iraq only to address an "imminent threat" by Iraq's weapons of mass destruction, instead of counteracting a "continuing threat" by Iraq. My amendment was rejected by the Senate by a vote of 30-70. On October 11, 2002, I voted against the resolution authorizing the use of force against Iraq, which passed in the Senate by a vote of 77-23.

It should be noted that, for the most part, this report ends its examination of prewar intelligence as it relates to Iraq's WMD programs with intelligence reporting that supported the production of the Iraq WMD NIE -- which was completed on October 1, 2002. This excludes the intelligence reporting on Iraq's WMD infrastructure that was generated between that time and the commencement of hostilities with Iraq in March 2003 (a period which included the return of U.N. inspectors to Iraq). Examination of the October 2002 NIE, while important, should not be considered the end of the story regarding WMD intelligence leading up to the war. And within several months of the initiation of the war, it became increasingly clear that the threat posed by Iraq's WMD programs, as described in the October 2002 NIE, was grossly exaggerated.

The Fallacy of Preemption

The apparent failure of the Intelligence Community to accurately assess the nature and extent of Iraq's WMD programs vividly highlights the fallacy of a foreign policy based on preemption. As former weapons inspector David Kay stated: "If you cannot rely on good, accurate intelligence that is credible to the American people and to others abroad, you certainly can't have a policy of preemption." (FOX News Sunday, February 1, 2004) The Iraq intelligence experience has completely undermined the Administration's preemption policy, and has done serious damage to America's reputation around the globe.

The Need for an In-Depth Review of the Intelligence Community

The Intelligence Community has experienced two significant failures in the last several years -- the September 11, 2001 terrorist attacks against the United States and prewar intelligence related to Iraq. This Fall will mark the three year anniversary of the September 11, 2001 terrorist attacks against the United States and the two year anniversary of the production of the October 1, 2002 NIE on Iraq's weapons of mass destruction,

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which was shown to have been inaccurate over a year ago. (The historic House and Senate Joint Inquiry into the September 11, 2001 terrorist attacks issued a report in December 2002 which contained recommendations for Intelligence Community reform.) These intelligence failures point to the compelling need for the Committee to undertake an in-depth review of the Intelligence Community's structure and effectiveness, and based on the results of such a review, initiate appropriate reforms. Given the national security challenges facing our country, this important undertaking should have begun long ago. Time is not on our side.