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House of Representatives

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To: Members, Committee on Oversight and Government Reform

From: Darrell Issa, Ranking Member

Date: December 23, 2008

On Thursday Chairman Waxman circulated a memorandum asserting certain conclusions about the Committee's two-year inquiry into "the basis for President Bush's claim in his 2003 State of the Union address that 'the British government has learned that Saddam Hussein recently sought significant quantities of uranium from Africa'." Although pre-war intelligence has been shown to have been clearly flawed and handled, the committee has still sought answers about the process that led to the false claim – particularly the question of whether or not Administration officials failed to heed warnings about flawed intelligence or whether or not political pressure was exerted to quiet dissenting opinions.

As has been the pattern throughout Chairman Waxman's investigation into the uranium claim in the State of the Union and related matters, the December 18, 2008 memo provides an overview of a selective investigation that has ignored critical evidence contradicting Chairman Waxman's conclusions which, unfortunately, seemed preordained from the inquiry's onset.

Chairman Waxman, in his memo to Committee Members, made the sensational claim that former White House officials Alberto Gonzales and Condoleezza Rice covered up and lied about their knowledge of CIA objections to the underlying intelligence used to support the uranium claim in the State of the Union. Omitted from the majority's report, however, are key facts that contradict Chairman Waxman's conclusion:

- Jamie Miscik, the former CIA official cited in Chairman Waxman's memo, in subsequent testimony to the committee, conceded that she had incorrectly recounted her conversation with then National Security Advisor Condoleezza Rice and that there was no discussion about the substance of the yellowcake intelligence in the September 24, 2002, conversation with Dr. Rice.

- White House speechwriter John Gibson gained his understanding of the CIA position on the uranium claim through a second-hand conversation with an NSC staff member. The Majority, in conducting this investigation, took no steps to interview the NSC staffer involved.

As is widely known, the administration has conceded that it would have been preferable had the President not included the uranium reference in the 2003 State of the Union address.¹ The White House's admission was made despite the fact between October 2001 and March 2003, one or more entities in the Intelligence Community issued material or approved statements at least twelve times supporting the suggestion that Iraq may have been attempting to obtain yellowcake.² This includes the October 2002 National Intelligence Estimate, a January 24, 2003 fax to the White House, a classified February 2003 communication with the United Nations International Atomic Energy Agency, and a letter the same month to Senator Carl Levin.³ In addition, the Central Intelligence Agency did not object to the language used in the State of the Union.⁴

I believe it is essential that Committee Members have a complete and accurate understanding of what the Committee has determined about this and related issues. The gravity of these matters, the seriousness of accusations leveled by some, and the extent of Committee resources devoted to this effort over the past twenty-four months necessitates a full accounting. Certain issues must not be selectively cherry-picked to give a distorted impression of the Committee's work.

In the course of this investigation, the Committee posed hours of questions to thirteen individuals in sixteen interviews or depositions, reviewed hundreds of additional pages of records collected by the Department of Justice, and had access to classified materials conveyed by the Intelligence Community. The Committee's efforts supplemented that of two other groups. The Senate Select Committee on Intelligence (SSCI) issued a comprehensive, unanimous, bipartisan 511 page report on related matters in July 2004, based upon a review of 15,000 pages of documents and interviews with more than 200 individuals.⁵ The bipartisan "Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction" (known informally as the Robb-Silberman Commission) issued a 600 page study in March 2005.⁶

¹ Walter Pincus, *White House Backs Off Claim on Iraqi Buy*, WASH. POST, July 8, 2003, A1.

² S. Rep. No. 108-301 at 36-70 (Jul. 9, 2004) (*Report of the [Senate] Select Committee on Intelligence [hereinafter "SSCI"] on the U.S. Intelligence Community's Prewar Intelligence Assessments on Iraq with Additional Views*) [hereinafter "Jul. 9, 2004 SSCI Report"]; Memo transmitted by Stanley Moskowitz, Director, Congressional Affairs, Central Intelligence Agency, to Tim Sample, Staff Director, U.S. House of Representatives Permanent Select Committee on Intelligence [hereinafter "HPSCI"] (Apr. 3, 2007).

³ *Jul. 9, 2004 SSCI Report* at 67-69. For a full accounting of other CIA communications expressing some support for the yellowcake intelligence after the Cincinnati and State of the Union addresses, see HPSCI.

⁴ *Jul. 9, 2004 SSCI Report* at 64-66.

⁵ *Jul. 9, 2004 SSCI Report* at 2-3.

⁶ Report to the President of the United States from the Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction [hereinafter "the Commission"], Mar. 31, 2005.

In light of this, I proffer the following points:

- ▶ The Committee has obtained no evidence which contradicts SSCI's conclusion that *all* "CIA Iraq analysts who had analyzed the Niger uranium reporting" from various sources believed "until at least March 2003" that "Iraq was seeking uranium from Africa."⁷
- ▶ The Committee has obtained no evidence which contradicts the conclusion shared by SSCI and the Robb-Silberman Commission about the possibility that intelligence estimates were skewed because of the influence of Administration officials.

SSCI "did not find any evidence that intelligence analysts changed their judgments as a result of political pressure, altered or produced intelligence products to conform with Administration policy, or that anyone even attempted to coerce, influence or pressure analysts to do so."⁸ Similarly, the Robb-Silberman group determined that the "analysts who worked Iraqi weapons issues universally agreed that in no instance did political pressure cause them to skew or alter any of their analytical judgments."⁹

- ▶ The Committee has obtained no evidence which contradicts SSCI's conclusion that the CIA *erroneously* informed the White House, the British, and the Congress in September and October 2002 that the CIA had doubt about Iraq's interest in uranium yellowcake, when analysts at the CIA, in fact, had no such doubts.¹⁰ SSCI determined that this confusion arose when a CIA analyst who "had not performed an analysis of the Iraq-Niger uranium reporting" became engaged on the issue in this period and conveyed "what he believed" to be the assessment of knowledgeable colleagues in the agency's Weapons Intelligence, Nonproliferation, and Arms Control (WINPAC) unit.¹¹ However, the SSCI concluded the analyst *misunderstood* WINPAC's assessment (that "Iraq was seeking uranium from Africa.") and caused incorrect information about the CIA's position to be communicated to various parties.¹²

These missteps explain why the CIA appeared to express doubt about the yellowcake intelligence in some circumstances for a short period, while the Agency supported it elsewhere before, during, and after the analyst's various exertions. It seems that after early October 2002, the misinformed analyst ceased conveying his inaccurate information, either because he never again had the opportunity to do so, or because he became aware of the actual CIA assessment of the yellowcake intelligence. This clarifies why the CIA continued to embrace intelligence about possible Iraqi efforts to obtain uranium ore at this time and for many months afterwards.

⁷ *Jul. 9, 2004 SSCI Report* at 78-79. [Portions of the text on page 78-79 of the Jul. 9, 2004 SSCI Report are redacted; the relevant unredacted text is available at S. Rep. No. 110-76 at 220-22 (May 25, 2007) (*Report of the SSCI on the U.S. Intelligence Community's Prewar Intelligence Assessments on Iraq with Additional Views*) [hereinafter "May 25, 2007 SSCI Report"] (Additional Views of SSCI Vice Chairman Bond, Sen. Hatch, and Sen. Burr).

⁸ *Jul. 9, 2004 SSCI Report* at 273.

⁹ The Commission at 11. The Commission continues: "It is hard to deny that conclusion that intelligence analysts worked in an environment that did not encourage skepticism about the conventional wisdom." *Id.*

¹⁰ *Jul. 9, 2004 SSCI Report* at 78-79. The declassified and unredacted version of these pages can be found in a subsequent SSCI report. See *May 25, 2007 SSCI Report* at 220-22.

¹¹ *May 5, 2007 SSCI Report* at 220-22.

¹² *Id.*

► The Committee determined that prior to appearing before the Committee, none of the individuals interviewed were aware of the miscommunication set forth by SSCI above. This includes officials whose actions and beliefs apparently rested upon the erroneous information conveyed to them, including then-Director of Central Intelligence George Tenet, his deputy John McLaughlin, and Deputy Director for Intelligence Jami Miscik. None seemed aware of the extent to which the analyst's errors could have influenced their understanding of events then or since. Only one other interviewee, who was intimately involved in events and had a role in communicating data to the White House, conceded the communications confusion as described in the SSCI report.¹³ He told the Oversight and Government Reform Committee that he believed the SSCI findings demonstrated how the CIA sent "multiple and mixed messages" in September and October 2002 about intelligence about Iraq's interest in yellowcake."¹⁴

► The Committee has obtained no evidence which contradicts SSCI's evaluation that "[f]or most [CIA] analysts," the written summation of Ambassador Joseph Wilson's trip to Niger, which was circulated to CIA evaluators, "lent *more credibility*" to the intelligence reports that Iraq had been seeking yellowcake.

► The Committee has obtained no evidence which shows White House officials knew Valerie Plame Wilson was an undercover CIA employee during the period in question.

► The Committee determined that several individuals interviewed in the course of the Committee's inquiry related specifics of their actions which conflict with other reliable accounts, including SSCI's unanimous, bipartisan report. It is possible that the reflections the individuals provided to the Oversight and Government Reform Committee were marred by being further removed in time from SSCI's report, influenced by events which have transpired since, motivated by a desire to appear especially perspicacious in hindsight, or confused by the miscommunication discussed above. In several important respects, the Chairman's December 18 memorandum seems to fail to appreciate this dynamic.

For example:

Jami Miscik. In an interview with the Oversight and Government Reform Committee, Ms. Miscik testified that on September 24, 2002, she telephoned then-National Security Advisor Condoleezza Rice to deny CIA approval for language about yellowcake in another draft presidential speech. When Ms. Miscik was asked "did you articulate the concerns that CIA had about the [yellowcake] claim?" Ms. Miscik replied "I believe I did. . . . I think that's how the call went."¹⁵ When asked if this included conveying to Dr. Rice "points about Iraq already having uranium, about . . . possibly one of [the uranium mines] being under water, and the French having control" of the uranium ore, she answered "yes."¹⁶

¹³ Interview of Mike Morrell by Oversight and Government Reform Committee [hereinafter OGR Comm.] staff (July 10, 2007) at 32-68 [hereinafter Morrell interview].

¹⁴ Morrell interview at 53, 58.

¹⁵ Telephonic Interview of Jami Miscik by OGR Comm. staff (June 14, 2007) at 22 [hereinafter Miscik June interview].

¹⁶ Miscik June interview at 24. Ellipses added.

On a follow-up interview, however, Ms. Miscik had a different recollection. Ms. Miscik replied “no” when asked if, in her call to the National Security Advisor, Ms. Miscik “questioned the v[e]racity of the intelligence,” “questioned its validity,” or expressed “doubts about its accuracy.”¹⁷ In the second interview, Ms. Miscik conceded she “incorrectly” recounted the conversation in her first interview and specified “there was no discussion about the substance” of the yellowcake intelligence in the “very short phone call” with Dr. Rice on September 24.¹⁸ In the second interview, Ms. Miscik furthermore said she had “no reason to question” accounts which suggest that it was Dr. Rice who proposed deleting proposed sentences about yellowcake to obviate whatever “issue on the speech” had apparently been expressed by subordinates to each official.¹⁹

The bureaucratic debate about the speech text occurred amidst the Intelligence Community’s finalization of the National Intelligence Estimate on “Iraq’s Continuing Programs for Mass Destruction,” a draft of which was already circulating through the IC.²⁰ The NIE declared

Iraq also began vigorously trying to procure uranium ore and yellowcake; acquiring either would shorten the time Baghdad needs to produce nuclear weapons. A foreign government service reported that as of early 2001, Niger planned to send several tons of ‘pure uranium’ (probably yellowcake) to Iraq. As of early 2001, Niger and Iraq reportedly were still working out arrangements for this deal, which could be for up to 500 tons of yellowcake. We do not know the status of this arrangement. Reports indicate Iraq also has sought uranium ore from Somalia and possibly the Democratic Republic of the Congo.”²¹

Contrary to the suggestions in the Chairman’s memorandum, it is difficult to interpret the September 24 call as communicating CIA dissent from the substance of the intelligence, in light of the NIE, support for the yellowcake intelligence within the CIA, and Ms. Miscik’s acknowledgement that she did not interpose specific objections about it to Dr. Rice. Ms. Miscik’s testimony to the Committee demonstrated she had poor recall of the topic.²² Indeed, she readily conceded she may have confused or conflated several conversations with varying individuals.²³ This hardly suggests malice on her part, but it also makes it extraordinarily difficult to rely on her testimony. Unfortunately, it is telling that the Chairman’s memorandum failed to describe fully the circumstances of Ms. Miscik’s interview, possibly because doing so would undercut the fundamental argument set forth.

¹⁷ Telephonic Interview of Jami Miscik by OGR Comm. staff (August 21, 2007) at 22 [hereinafter Miscik August interview].

¹⁸ Miscik August interview at 45, 24, 21.

¹⁹ Miscik August interview at 24, George Tenet with Bill Harlow, *At the Center of the Storm: My Years at the CIA* 474 Harper Collins 2007 [hereinafter Tenet, *Storm*].

²⁰ *Jul. 9, 2004 SSCI Report* at 52.

²¹ National Intelligence Council, *Iraq’s Continuing Programs for Weapons of Mass Destruction* 25, October 2002.

²² Miscik August interview at 34, 35, 46.

²³ Miscik August interview at 49.

John Gibson. Mr. Gibson, who was a speechwriter at the National Security Council in 2002, provided testimony to the Committee in 2007. He said he recalled an instance five years before in which an NSC staffer asked him to delete yellowcake language proposed for a presidential speech to be given on September 12, 2002. Chairman Waxman's memorandum unduly privileges this narrative over information offered by the White House. The Majority took no steps to interview the NSC staffer involved, despite the opportunity this would have offered to clarify the situation.

Nonetheless, a fair consideration of the totality of the information available to the Committee provides a better understanding of related events. It is critical to note that in his interview Mr. Gibson recounted to the Committee that the staffer told him that deleting a reference to yellowcake intelligence was necessary because, although the CIA "believed it to be true," the Agency thought the underlying intelligence "just wasn't quite at the level of verifiability that they were comfortable for inclusion in a presidential speech."²⁴ The Chairman makes much of Mr. Gibson's assessment that the White House's assertion to SSCI that the CIA approved the language was "incorrect" because it countered his "understanding" of what he was told had transpired.²⁵ Yet, Mr. Gibson's "understanding" of the CIA's position on the proffered text, which he gleaned second-hand from a staffer with whom he acknowledged philosophical differences, is hardly dispositive.²⁶

In addition, some may infer from the Chairman's memorandum that the chief White House speechwriter and NSC staffer, in suggesting the inclusion of a yellowcake reference in the president's remarks, were pushing an obscure matter akin to gossip or random ideological musings. Such an inference is wrong. In July 2002, the Department of Energy's intelligence unit circulated a paper which said intelligence on Iraqi efforts to procure yellowcake might be attempting to develop nuclear weapons.²⁷ Two months later, the Defense Intelligence Agency disseminated a report which said "Iraq has been vigorously trying to procure uranium ore and yellowcake."²⁸ In his interview, Mr. Gibson acknowledged that this was the sort of authoritative materials which the NSC staffer would receive and review in the course of his responsibilities.²⁹

In addition, the NIE was adopted just two weeks after the September 12 speech. The CIA's endorsement of this document so soon after the events described by Mr. Gibson places in better context Mr. Gibson's recollections about what others reported to him about the CIA's impressions at the time.

George Tenet. In his book and in his interview with the Committee, Mr. Tenet sets forth a timeline of communications with the White House in October 2002 when he relayed objections to the yellowcake intelligence, which apparently originated with the misinformed analyst discussed above. The sequence and dates for certain events in Mr. Tenet's recollections differ from nearly every other account of the matter, including that outlined by SSCI.³⁰ It is significant

²⁴ Interview of John Gibson by OGR Comm. staff (August 2, 2007) at 22 [hereinafter Gibson interview].

²⁵ Gibson interview at 36.

²⁶ Gibson interview at 22-23, 27, 45-46, 53, 177.

²⁷ *Jul. 9, 2004 SSCI Report* at 48.

²⁸ *Id.*

²⁹ Gibson interview at 65, 97-99.

³⁰ Tenet, *Storm* 449-450; *Jul. 9, 2004 SSCI Report* at 55-57.

to note that one Committee interviewee who was involved in the events took exception to “some” portions of Mr. Tenet’s recollections, but did not raise this when he reviewed the publication in draft form because his “job was not to check Mr. Tenet’s book for accuracy,” but rather only to ensure that classified material was not unintentionally disclosed.³¹

Conclusion

A thorough and unbiased evaluation of the intelligence failures that led to the 2003 uranium claim in the State of the Union Address could actually help reform government operations, improve the management of the Intelligence Community, and benefit the new Administration. However, Chairman Waxman has shown no interest in pursuing these issues. As I indicated recently, it seems Majority Members instead prefer “to lodge ill-founded, headline-grabbing complaints about the extent to which the current Administration has been cooperative in their query, and appear to be wedded to a preordained investigatory conclusion presumably pleasing to their most vocal supporters.”³²

As part of a quixotic attempt to explain voting to authorize the President to use force in Iraq, Chairman Waxman has recklessly ignored evidence that a key witness in the uranium claim investigation, Valerie Plame Wilson, lied to the Committee in her March 16, 2007, testimony. His investigation has also omitted evidence, or failed to investigate, accounts that do not immediately support the seemingly preordained ideological claim that senior members of the Bush White House lied the United States into a war with Iraq.

Chairman Waxman’s legacy in investigating the 2003 State of the Union uranium claim has, unfortunately, not led to new important widely accepted conclusions or real reforms. It has, however, generated substantial media interest based on incomplete and manipulated accounts of information and a general failure to examine sources of information or accounts contradictory to the conclusions of the Chairman.

³¹ Morrell interview at 54, 55.

³² OGR Comm., *Executive Privilege Appropriate; Valerie Plame May have Mised the Committee*, Additional Views to the Committee Report “*President Bush’s Assertion of Executive Privilege Regarding Attorney General Mukasey*,” at 2, 9 December 2008.