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ONE HUNDRED TENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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March 3, 2008

The Honorable Condoleezza Rice
Secretary
U.S. Department of State
2201 C Street, NW
Washington, DC 20520

Dear Madam Secretary:

On October 25, 2007, you testified before the Oversight Committee that you knew little about a secret order issued by Iraqi Prime Minister Nouri al Maliki's office in April 2007 that prevented the investigation and referral of corruption cases involving the Iraqi president, the Council of Ministers, or any current or former ministers without the Prime Minister's consent. Despite widespread attention to this issue leading up to the hearing, you testified: "I don't know precisely what you are referring to." You also stated: "I must get back to you on the specifics of the order." Although more than four months have passed, the Committee has not received any communication from you regarding this issue. For this reason, I am now requesting various documents and communications between you, your staff, and other State Department officials relating to this topic.

On October 4, 2007, the Oversight Committee held its first hearing regarding Iraqi corruption. The main witness was Judge Radhi Hamza al-Radhi, the former Commissioner of the Iraqi Commission on Public Integrity. In compelling testimony, Judge Radhi described how corruption in Iraq "is getting worse" and "has stopped the process of reconstruction in Iraq."¹ Judge Radhi also described the gruesome murders of 31 of his employees and 12 of their family members.²

During his testimony, Judge Radhi explained his concerns about a secret order that Iraqi Prime Minister Maliki's office issued on April 1, 2007, that had the effect of immunizing top Iraqi officials from investigation and prosecution for corruption. The order, which the

¹ House Committee on Oversight and Government Reform, Testimony of Judge Radhi Hamza al-Radhi, *Assessing the State of Iraqi Corruption*, 110th Cong. (Oct. 4, 2007).

² *Id.*

Committee obtained, states: "It has been decided not to refer any of the following parties to the court until approval of His Excellency, the Prime Minister is obtained: (1) presidential office; (2) Council of Ministers; [and] (3) current and previous ministers."³

According to Judge Radhi, "tons of cases were stopped because ... this letter would go to the courts and the courts would stop looking into examining the cases."⁴ Judge Radhi also testified that Prime Minister Maliki's office issued other similar orders to prevent further investigation or referrals of specific corruption cases for prosecution. For example, orders issued by the Prime Minister's office on February 4 and April 2, 2007, which the Committee also obtained, instructed authorities to close pending cases against the Prime Minister's cousin.⁵

Another key witness at the Committee's October 4 hearing was Ambassador Lawrence Butler, your Deputy Assistant Secretary for Near East Affairs. When the Committee asked Ambassador Butler to answer questions about the order from Prime Minister Maliki's office, he testified that the State Department had concluded that the matter was too sensitive to address in public. One interchange went as follows:

Chairman Waxman: Has Prime Minister Maliki or his associates obstructed any anti-corruption investigations in Iraq to protect his political allies?

Mr. Butler: I would be unable to answer that question in an unclassified setting, Mr. Chairman.

Chairman Waxman: Why is that?

Mr. Butler: This goes to the nature of our relationship with the government of Prime Minister Maliki, and we have repeatedly on many occasions offered to the Committee and to staff to provide answers to questions like this in a classified setting.⁶

³ Letter from Dr. Tarek Nijm Abdallah to Commission on Public Integrity (Apr. 1, 2007) (online at www.oversight.house.gov/documents/20071004183105.pdf).

⁴ House Committee on Oversight and Government Reform, Testimony of Judge Radhi Hamza al-Radhi, *Assessing the State of Iraqi Corruption*, 110th Cong. (Oct. 4, 2007).

⁵ Letter from Dr. Tarek Nijm Abdallah to Commission on Public Integrity (Apr. 2, 2007) (online at www.oversight.house.gov/documents/20071004183143.pdf); Letter from Dr. Tarek Nijm Abdallah to Commission on Public Integrity (Feb. 4, 2007) (online at www.oversight.house.gov/documents/20071004183126.pdf); *see also* House Committee on Oversight and Government Reform, Testimony of Judge Radhi Hamza al-Radhi, *Assessing the State of Iraqi Corruption*, 110th Cong. (Oct. 4, 2007).

⁶ House Committee on Oversight and Government Reform, Testimony of Ambassador Lawrence Butler, *Assessing the State of Iraqi Corruption*, 110th Cong. (Oct. 4, 2007).

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On October 12, 2007, I joined the chairmen of three other House committees, Representatives Tom Lantos, Ike Skelton, and David Obey, in writing directly to you to express our concern that Congress and the American people were not getting “honest answers about the extent of corruption in the Maliki government.” We asked again for information about whether Prime Minister Maliki “obstructed any anticorruption investigations in Iraq to protect his political allies” or “protected some of his relatives that were involved in corruption.”⁷

In response, Jeffrey T. Bergner, your Assistant Secretary of Legislative Affairs, wrote a letter on October 15, 2007, acknowledging that “corruption in Iraq is a very serious challenge” and that “not all information” sought by the Committee “is necessarily classified.” But the letter failed to provide any information about the order issued by Prime Minister Maliki’s office or its effects on ongoing corruption cases involving top Iraqi officials.⁸

Throughout October, the refusal of State Department officials to engage in any public discussion of the Maliki orders drew widespread criticism.⁹ On October 15, 2007, the House of Representatives passed Resolution 734, which concluded that “it was wrong” for the State Department “to retroactively classify ... statements that are embarrassing but do not meet the criteria for classification.”¹⁰ The resolution also concluded that “it is an abuse of the classification process to withhold from Congress and the people of the United States broad assessments of the extent of corruption in the Iraqi Government.”¹¹

To obtain answers to these questions, the Committee requested that you personally testify on October 25, 2007.¹² At this hearing, you testified that you were unaware of the details of the order issued by Prime Minister Maliki’s office and that you would have to get back to the Committee. One extended interchange went as follows:

⁷ Letter from Chairmen Henry A. Waxman, Tom Lantos, Ike Skelton, and David Obey to Secretary of State Condoleezza Rice (Oct. 12, 2007).

⁸ Letter from Jeffrey T. Bergner to Chairman Henry A. Waxman (Oct. 15, 2007).

⁹ See, e.g., *Ex-Investigator Details Iraqi Corruption*, Washington Post (Oct. 5, 2007); *U.S. Official Says He Won’t Discuss Corruption in Iraq*, Los Angeles Times (Oct. 5, 2007); *Suicide is Not Painless*, New York Times (Oct. 21, 2007) (detailing “State Department stonewalling” in the Committee’s efforts to investigate whether Prime Minister Maliki’s office “has repeatedly tried to limit the scope of inquiries conducted by Iraq’s own Commission on Public Integrity”).

¹⁰ U.S. House of Representatives, Roll Call Vote on Agreeing to H. Res. 734 (Oct. 16, 2007) (395 ayes, 21 nays).

¹¹ *Id.*

¹² Letter from Chairman Henry A. Waxman to Secretary of State Condoleezza Rice (Oct. 18, 2007).

Chairman Waxman: Judge Radhi gave the Committee copies of secret orders from Prime Minister Maliki's deputy. And I have the secret orders, and we extended a copy to you. These orders say that the Iraqi Commission on Public Integrity cannot refer for criminal prosecution the Iraqi president, the Council of Ministers, or any current or former ministers, without the prime minister's permission. In effect, this order immunizes all the most senior officials in the Maliki government from any corruption investigation. Is this true? Is this what this order does provide? And did Prime Minister Maliki's office issue orders protecting current or past ministers from corruption investigation?

Secretary Rice: Mr. Chairman, no one in Iraq is going to escape corruption probes. I don't care what kind of order is —

Chairman Waxman: No, no. Are you aware of that order?

Secretary Rice: I believe that you are referring to something that is — because there's an executive branch and a legislative branch that are treated differently. Is that the point?

Chairman Waxman: No. The point of the order is that Prime Minister Maliki has issued an order saying that he may not be investigated, nor may his ministers be investigated for corruption, which means they're immunized from anything —

Secretary Rice: Well, I can tell you —

Chairman Waxman: Excuse me, Secretary. Excuse me. Which means they're immunized from investigation by the Iraqis themselves of corruption. Are you aware of that order? And does it trouble you that such an order has been issued?

Secretary Rice: Well, Mr. Chairman, I will have to get back to you. I don't know precisely what you are referring to. It is our understanding that the Iraqi leadership is not, indeed, immune from investigation.

Chairman Waxman: Well, we held this hearing on October 4th. The State Department sent Ambassador Butler to testify. We went through all of this with him. We even gave him copies of this order. And I don't know if you're telling us you haven't seen them, or now that you've seen them you don't believe them.

Secretary Rice: No. I'm telling you, Mr. Chairman, that I will get back to you on this question. If, in fact, there is such an order, and if this order is meant to immunize, rather than to make certain that the investigation is by appropriate bodies in Iraq, that would certainly be concerning.

Chairman Waxman: Well, this order that was shown to us by Judge Radhi, it was discussed at our October 4th hearing. We even asked Ambassador Butler from the State Department about it. And we expected you would come in and give us your view of such an order. Because it, in a sense, says while you believe everything is going to be investigated in Iraq, they are not planning to investigate corruption by the prime minister or any of his ministers. And if that's the order, I think you ought to tell us that you are as outraged as we are, because we want corruption investigated and not just left for you to get back to us another time.

Secretary Rice: Mr. Chairman, I have just stated that it would not be the intention of the United States of America that any official in Iraq, including the Prime Minister, the President or members of the Council of Representatives, would be immune from investigation for corruption. I must get back to you on the specifics of the order that you are talking about, because I don't know whether there are other bases on which people can be investigated.

But I will tell you unequivocally that if there is a situation which the Prime Minister or the President of the Council of Representatives could escape investigation from, concerning corruption, yes, that would be deeply concerning, and it would not be an acceptable policy, from the point of view of the United States.¹³

It is now more than four months since the October 25 hearing. The Committee still has received no communications from you regarding this issue. Despite your promises to follow-up with the Committee, we still do not know what your views are about the order.

For these reasons, I ask that you provide the Committee with copies of all documents relating to the February 4, April 1, and April 2, 2007, orders issued by the office of Iraqi Prime Minister Nouri al Maliki and described in this letter. All responsive documents from the Office of the Secretary, the Office of the Coordinator for Iraq, and the Office of the Deputy Assistant Secretary for Near East Affairs should be provided to the Committee by March 28, 2008. Responsive documents from all other offices within the State Department and the embassy should be provided to the Committee by April 11, 2008.

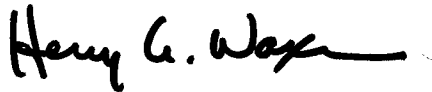
The Committee on Oversight and Government Reform is the principal oversight committee in the House of Representatives and has broad oversight jurisdiction as set forth in House Rule X. Enclosed with this letter are instructions on how to respond to the Committee's document request.

¹³ House Committee on Oversight and Government Reform, Testimony of Secretary of State Condoleezza Rice, *The State Department and the Iraq War*, 110th Cong. (Oct. 25, 2007).

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If you have any questions, please contact David Rapallo or Suzanne Renaud of the Committee staff at (202) 225-5420.

Sincerely,

A handwritten signature in black ink that reads "Henry A. Waxman". The signature is written in a cursive style with a long horizontal stroke at the end.

Henry A. Waxman
Chairman

Enclosure

cc: Tom Davis
Ranking Member