Minority Views of Vice Chairman Bond and Senators Chambliss, Hatch, and Burr

Report on

Intelligence Activities Relating to Iraq Conducted by the Policy Counterterrorism Evaluation Group and the Office of Special Plans within the Office of the Undersecretary of Defense for Policy

MINORITY VIEWS OF VICE CHAIRMAN BOND AND SENATORS CHAMBLISS, HATCH, AND BURR*

The much anticipated report published today purporting to conclude the Committee's inquiry into "*any intelligence activities relating to Iraq conducted by the Policy Counterterrorism Evaluation Group (PCTEG) and the Office of Special Plans within the Office of the Under Secretary of Defense for Policy*" will be a disappointment to those who have been expecting that the Committee would uncover wrongdoing by the Office of the Under Secretary of Defense for Policy (OUSDP).

In spite of comments from the Chairman of this Committee twice alleging that the OUSDP, or its former head, Under Secretary of Defense Doug Feith, may have engaged in unlawful activities, the report released today found nothing to substantiate that claim; nothing unlawful about the alleged "rogue intelligence operation" in the PCTEG, nothing unlawful about the Office of Special Plans, and nothing unlawful about the so-called failure to inform Congress of alleged "intelligence activities."

Just last year, the Chairman released a press statement following the release of a Department of Defense Inspector General report into the OUSDP claiming that it appeared that the office's activities were "not in compliance with the law." Press reports at the time noted that the Chairman vowed to pursue the issue in the Committee. In 2004, the Chairman accused the Under Secretary of Defense for Policy of "efforts to run intelligence past the intelligence community" and wondered "was he running a private intelligence failure [sic], which is not lawful." Yet, rather than pursue these allegations, the Chairman directed that this portion of the Committee's inquiry focus on an issue unrelated to either office identified in the Committee's terms of reference or the DoD Inspector General report. Despite allegations that the OUSDP may have contributed to faulty intelligence on Iraq, he decided to pursue an issue unrelated to intelligence and unrelated to Iraq. He pursued an inquiry of an exploratory meeting held in Rome in 2001 between two Department of Defense officials and two Iranians about ***Iran*** (hereafter called the "Rome meetings").

As the majority report clearly shows, the Rome meetings occurred in December 2001, nearly a year before the Office of Special Plans even existed. While the PCTEG did exist at the time of the Rome meetings, it was a two person group involved in other work and neither of these individuals was involved in the Rome meetings. While one of the Rome meeting participants did join the Office of Special Plans after it was formed, his activities pertaining to the Rome meetings had ceased many months before. The other Rome meeting participant was not even an employee of OUSDP. In fact, the Rome meetings had very little to do with the Office of the Under Secretary of Defense for Policy at all, and had almost nothing to do with former Under Secretary of Defense Doug Feith.

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* I concur with the Vice Chairman's views on the substance of the report as well as the Minority's amendments. I am unable to comment on any Phase I or Phase II activities that preceded my membership on this Committee.

We cannot explain why the Chairman would direct the Committee to undertake a review unrelated to the task outlined in the terms of reference after four years of arguing for the necessity of the Committee completing this portion of Phase II, and after vociferously criticizing the previous Chairman for his effort to move the review along by asking the Department of Defense Inspector General to examine the issue. The Chairman claimed on numerous occasions that the Inspector General was not a substitute for the Committee's work, but nearly a year after the release of the Inspector General's findings, the Committee has done nothing to pursue that effort.

At the Committee's business meeting to vote on this report, the Chairman told the members of the Committee that he and the previous Chairman had agreed that the Rome meetings would be included as part of Phase II, but a 2006 letter from then-Chairman Roberts belies that claim. In the letter, Chairman Roberts restated the Committee's agreed upon terms of reference and added:

> You have asked to restart the Committee investigation into the Pentagon's Rome meetings. Clearly, this does not fall within the scope of Phase II. As you know, the Committee reviewed this issue nearly three years ago and found that it involved Iran and not Iraq. In addition, the Committee found nothing which required additional investigation.

One would imagine that to go to such great lengths to abandon the Committee's terms of reference and abandon an investigation of offices and activities which Chairman Rockefeller himself alleged to have been potentially "unlawful," the Rome meetings would have involved even more wrongdoing. The majority report released today, however, shows that this was not the case. The majority report shows that there was nothing unlawful about DoD's, or any other entity's, role in or conduct during the Rome meetings.

The majority's report states:

> The Committee's review of applicable laws and regulations indicates that Deputy National Security Advisor Hadley and Deputy Secretary Wolfowitz acted within their authorities in directing DoD personnel to attend the Rome meeting.

Ironically, after all of the allegations of unlawful activities, rather than state this prominently as one of the eight main conclusions, this most significant finding is buried in a summary paragraph.

Instead, the report's eight conclusions are dedicated to vague allegations of "inappropriate" activities or of failures by administration officials with little explanation to justify such claims. For example, the report concludes that Deputy National Security Advisor Steven Hadley "failed" to inform Director of Central Intelligence Tenet and Deputy Secretary of State Armitage of the full nature of the planned contact with the Iranians in Rome. The

conclusion does not make clear several relevant factors including that: (1) Mr. Hadley was not required to notify either individual; (2) although not required to do so, he notified Tenet and Armitage of the information he had including, apparently, that the Iranians allegedly had threat information and that the meeting would take place in Europe; and (3) despite receiving this information, apparently, neither Tenet nor Armitage asked any follow up questions to obtain additional information. Yet, the majority has concluded that Mr. Hadley "failed."

Other conclusions argue that Mr. Ledeen's role in facilitating the Rome meeting was "inappropriate" with no explanation as to why, and that the decision by Deputy Secretary of Defense Wolfowitz to keep the Rome meeting close-hold was "ill-advised," because it led to the alleged "withholding of pertinent information from the intelligence community," something the report explicitly shows is not true. The same information obtained during the Rome meeting was later provided to the Defense Intelligence Agency (DIA). None of the conclusions in the majority report has merit or substance—as the text of the report makes clear.

The majority seems to have borrowed an idea from the Department of Defense Inspector General in outlining vague notions of "inappropriate" activity without defining "inappropriate" or explaining the reasoning behind such accusations. After four years of making unsubstantiated allegations of unlawful activities, the calculus appears to be that proclamations of "inappropriate" behavior will generate the desired headlines focusing only on the caustic words, rather than the lack of substance or lack of evidence behind them. We hope that these additional views will help redirect that focus to the evidence, or lack thereof.

There are too many problems with this report to highlight them all in these minority views. We will, therefore, attach the amendments filed by the Vice Chairman on behalf of the minority. Although these amendments were filed by the required filing deadline, the Chairman refused to allow consideration of any of them at the business meeting to vote on the reports. We highlight the following areas in which the report is particularly inadequate and makes unsupported claims.

First, in several areas the report claims that Director of Central Intelligence Tenet and Deputy Secretary of State Armitage were "not provided with significant details regarding the proposed meeting." As noted above, Deputy National Security Advisor Hadley provided both individuals with the information he knew. He did not have detailed information because the meetings were exploratory—to find out what information the two Iranians involved had and to make a determination about whether their information was worth pursuing further. The report alleges that the information was insufficient, yet does not make clear why if either individual thought the information was insufficient, he did not ask the Deputy National Security Advisor for additional details.

The Committee failed to interview Mr. Armitage to ask him this question or whether he believed the information was insufficient. An interview with Mr. Tenet, conducted over the phone (at the request of the minority but with only majority staff present) two days before the originally scheduled vote on the report, did not provide a sufficient response to this question. Mr. Tenet apparently did not think the information was sufficient, but he did not request additional details of Mr. Hadley, according to the majority's memorandum for the record,

because he did not want to stand in the way of "collecting threat information." If minority staff had been included in such a discussion they would have pressed Mr. Tenet to explain why asking a simple follow-up question would stand in the way of collecting threat information.

In several places, the majority report makes leaps of logic that are also not supported by the evidence. In the body and again in the conclusions, the report questions whether the Iranians involved in the Rome meetings really did not want to meet with the CIA, as numerous interviews and documents indicate Mr. Ledeen told Mr. Hadley. The report alleges that Mr. Ledeen fabricated this claim to circumvent the intelligence community, citing testimony from the two DoD officials who participated in the Rome meeting that the issue of whether or not the Iranians were unwilling to meet with the CIA did not come up during the meetings. However, the fact that such an issue did not come up during the Rome meetings does not clarify one way or the other whether the Iranians really were unwilling to meet with the CIA. As the DoD informed the Committee in March 2008, in response to staff questions,

> If none of the participants expressed reservations at the Rome meeting about CIA involvement, as the Committee staff states in this question, this would seem to have little or no significance considering that the CIA in fact did not participate in the meeting, ... thus there would have been no obvious reason why this subject should have arisen at the exploratory Rome meeting.

This response was excluded from the majority report. With no evidence whatsoever, the majority report extrapolated a scenario in which Mr. Ledeen lied to circumvent the CIA. That is good material for conspiracy theorists, but not suitable for a report of the Senate Intelligence Committee.

Several areas of the report also claim that the "limited awareness of the Rome meeting within the CIA and the State Department ... would have a significant impact on the ultimate outcome of this activity." The implication of these comments throughout the report is that it was DoD's secrecy that kept the information from being pursued by the CIA. This suggestion is not supported by any evidence in the majority report. On the contrary, according to the information in the report, the CIA and Department of State did not want to be involved in any activities that involved Mr. Ghorbanifar, and the CIA only reluctantly agreed to be involved with Mr. Ledeen, but, according to Mr. Tenet, regarding only activities not related to the Iranians involved in the Rome meetings. Had the Rome meeting not been kept limited, the only likely outcome would have been that the meeting would not have taken place at all, a significant impact to be sure, but not the one alleged in the majority report.

The report also claims that the government "never processed the remaining information [obtained at the Rome meeting] to determine its potential value or the benefit of continued contact with the Iranians," a claim not borne out by the facts in the majority's own report. In addition to bringing the information to the attention of the Director of the DIA, the Office of the Secretary of Defense referred the information to the DIA's Defense HUMINT Service (DH) directly, by putting them in contact with Mr. Ledeen. A contact memorandum from that meeting indicates that the names of the Iranians and the information they provided at the Rome meeting were shared with DH and that Mr. Ledeen offered to provide additional information the DH

deemed necessary, once a decision to pursue the contact had been made. The report also requested name traces on the two individuals and guidance from DIA on how to proceed. The DH contacted the CIA about the information, but because the CIA told the DH that Mr. Ledeen regularly approached government contacts "with various proposals he deemed of interest," the DH determined that no further contact was warranted or advisable. Contrary to the claims in the majority report, the government did pursue the information and determined that it was not advisable to pursue further contact. The majority report's "Conclusion 4," which claims that senior DoD officials "would not allow" this information to be placed in proper intelligence channels once it was gathered, is fallacious, particularly in light of the fact that these senior officials specifically referred Mr. Ledeen to the DIA.

One of the more egregious omissions from the report is testimony from individuals directly involved in these issues because the Committee chose not to interview them. As noted earlier the Committee never sought an interview with Deputy Secretary of State Armitage and only interviewed Director of Central Intelligence Tenet at the eleventh hour, at the request of the minority and without any minority staff present. The Committee did not interview Deputy National Security Advisor Hadley, yet the Committee recounts conversations among these three individuals, quoting books and questions for the record rather than taking the time to talk to them directly. The review staff never interviewed Mr. Rhode, one of only two DoD officials to attend the Rome meeting. While Mr. Rhode had been interviewed by other Committee staff in 2004, several areas in need of clarification remain outstanding because of the failure to re-interview this key participant. The U.S. Ambassador to Rome, Mel Sembler, was not interviewed, nor was Under Secretary of State Mark Grossman, both integral to understanding fully false allegations that DoD was involved in a covert action.

Overall, we are at a loss to explain why the Chairman went to such great lengths to investigate this issue, only to publish an incomplete report riddled with unsubstantiated claims, which, in the end, refutes his allegations of unlawful activities. It was a complete waste of time and should never have been part of the Committee's Phase II investigation.

CHRISTOPHER S. BOND
SAXBY CHAMBLISS
ORRIN G. HATCH
RICHARD BURR