



**Executive Privilege Appropriate;
Valerie Plame May Have Misled the Committee**

**Additional Views to the Committee Report
*“President Bush’s Assertion of Executive Privilege Regarding Attorney General
Mukasey”***

**U.S. House of Representatives
110th Congress
Committee on Oversight and Government Reform**

December 9, 2008

Summary

Regarding the Committee's access to FBI notes (colloquially known as "302s") from other individuals interviewed in connection with the Plame investigation, the Majority believes too little material has been provided by the Attorney General, and that which has been proffered is of limited use. The Minority disagrees. The Attorney General has made significant accommodations to the Committee's requests. There is no reason to believe the modest amount of information withheld would alter the interpretation of the details at hand. Under these circumstances, the President's invocation of executive privilege is a legitimate exercise of Constitutional prerogatives not overcome by the Committee's legislative or oversight needs – needs which could have been met through less confrontation and obtrusive means.

The courts have never limited executive privilege to communications with the President. If the Vice President is serving the President by advising him with regard to "a quintessential and non-delegable Presidential power" it is arguable that documents and communications on these topics would be protected by executive privilege even if they were solely Vice Presidential communications.¹ Further, under certain circumstances, it is also arguable and should be examined, whether or not executive privilege extends to Vice Presidential communications. The question of whether the Vice President enjoys similar or substantially similar privileged communications as the President is unresolved. Congress should clarify this matter in the next Congress.

Notwithstanding these questions of privilege, the 302s made available by the Administration enabled several important conclusions to be reached. This record is clear: no evidence was provided which shows White House officials knew Valerie Plame Wilson was an undercover CIA employee during the period in question. On the other hand, this and other material has raised questions about the identity, motivation, and actions of other individuals and institutions involved in the Plame-Wilson matter and in communicating intelligence to policy makers. It is these issues which demand Committee scrutiny.²

Indeed, on October 22, 2008, Rep. Darrell Issa sent Chairman Henry A. Waxman a letter which outlines information which came to Rep. Issa's attention through his service on the House Permanent Select Committee on Intelligence (HPSCI). The letter communicated the fact that the Director of Congressional Affairs for the Central Intelligence Agency forwarded information to HPSCI from an employee that raises an "urgent concern" relating to "[a] false statement to Congress, or a willful withholding from Congress, on an issue of material fact relating to the funding, administration, or operation of an activity."³ Rep. Issa has reviewed the transmittal. Without revealing the

¹ See *In re Sealed Case*, 121 F.3d 726, 752 (D.C. Cir. 1997).

² Letter from Tom Davis, Ranking Member, House Oversight and Government Reform Committee [hereinafter OGR Comm.], to Henry A. Waxman, Chairman, OGR Comm., Jul. 17, 2008 [hereinafter "Jul. 17, 2008 Davis Letter"].

³ Letter from Rep. Darrell E. Issa, OGR Comm. to Rep. Henry A. Waxman, Chairman, OGR Comm., Oct. 22, 2008.

classified substance or specifics of the CIA's communication to Oversight and Government Reform Committee Members or staff, Mr. Issa has indicated he believes it calls into serious question whether aspects of Ms. Plame Wilson's March 16, 2007 testimony before the Committee were truthful.

Some partisans have preposterously suggested the Majority's quixotic two-year inquiry has revealed "the administration's suppression and distortion" of "pre-war intelligence on Iraq."⁴ Not only can such a hyperbolic statement not be sustained, in addition to providing the platform which ultimately resulted in the CIA notification, the Majority's activities have helped instead to identify dysfunction within the Central Intelligence Agency. Such dysfunction directly affected policy-makers' understanding of intelligence about Iraq's possible nuclear program, and influenced later assessments of how that intelligence was handled.

Sadly, while a thorough and unbiased evaluation of these circumstances could actually help reform government operations, improve the management of the Intelligence Community, and benefit the new Administration, the Majority has shown no interest in pursuing these matters. Rather, they 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.⁵

The 302 Accommodation Process

Following the Committee's request to Special Counsel Patrick J. Fitzgerald for FBI interview reports obtained in the course of Mr. Fitzgerald's inquiry, the Administration agreed to provide the Committee with copies of 224 pages of records of interviews with thirty-one individuals. These included a former Secretary, Deputy Secretary, Undersecretary, and two Assistant Secretaries of State, and other former or current State Department and CIA officials, including the Vice President's CIA briefer. These 302s had some redactions, including "medical information,"⁶ "social security numbers and home addresses," and "a limited amount of classified information" considered "not responsive" to the Committee's request.⁷

The Administration subsequently arranged for Committee staff to review and take notes from 104 pages of additional interview reports, in a process known as "in camera" review. These were summaries of interviews of the Director of Central Intelligence, White House Chief of Staff Andy Card, presidential advisors Karl Rove, Condoleezza

⁴ Harold Meyerson, *A Job for Henry Waxman*, WASH. POST., Nov. 19, 2008, A21.

⁵ Three years ago Chairman Waxman described the putative purpose of a Committee inquiry as examining "how does the leak relate to the misuse of intelligence that provided the rationale for going to war in Iraq?" Letter from Henry A. Waxman, Ranking Member, OGR Comm., to Tom Davis, Chairman, OGR Comm., Nov. 16, 2005.

⁶ Letter from Patrick Fitzgerald, Special Counsel, U.S. Department of Justice, to Henry A. Waxman, Chairman, OGR Comm., Jun. 18, 2008.

⁷ Letter from Patrick Fitzgerald, Special Counsel, U.S. Department of Justice, to Henry A. Waxman, Chairman, OGR Comm., Aug. 16, 2007.

Rice, Stephen Hadley, and Scott McClellan and eleven other Administration officials, including the Vice President's chief of staff, deputy chief of staff, national security advisor, and aides to these individuals. These 302s were "largely unredacted."⁸ However, the excisions that were made covered "candid comments about members of the media and colleagues, presidential and vice presidential communications, comments on subjects unrelated to the Committee's inquiry and personal information" such as "home addresses, telephone numbers, and birthdates."⁹ Also omitted were "discussions about whether individuals would submit to polygraph examinations."¹⁰

On June 3, 2008, Chairman Waxman wrote to the Attorney General requesting "unredacted versions of the interviews" with Messrs. Rove, Libby, and McClellan, and Dr. Rice and presidential aide Cathie Martin.¹¹ When replying on June 24, 2008, the Department of Justice emphasized "we have been, and remain, open to considering all reasonable accommodations that might satisfy the Committee's request for information."¹² This included "the possibility of making available for review, upon a showing of particularized need, specific redacted portions of White House interview reports previously reviewed by the Committee."¹³ In summary, the Department explained to Chairman Waxman:

Your various letters on this matter have explained the Committee's legislative purpose for its inquiry concerns the review of White House procedures for handling classified information. We have attempted to accommodate this interest by permitting the Committee to review the reports of interviews of senior White House staff, which contain some information relevant to this subject. However, these reports also contain considerable information detailing the internal White House deliberations and communications of senior White House staff concerning how they should respond on behalf of the President to public assertions challenging the accuracy of a statement made in the President's State of the Union Address. The Executive Branch has important institutional interests in the confidentiality of such White House deliberations and communications, and we therefore accommodated the Committee's interests by making interview reports of senior White House staff available for review but not copying, with limited redactions of presidential and vice presidential communications and personal information not germane to the leak investigation.¹⁴

⁸ Letter from Brian Benczkowski, Principal Deputy Assistant Attorney General, U.S. Department of Justice, to Henry A. Waxman, Chairman, OGR Comm., Jan. 18, 2008.

⁹ *Id.*

¹⁰ *Id.*

¹¹ Letter from to Henry A. Waxman, Chairman, OGR Comm., to Michael B. Mukasey, Attorney General, U.S. Department of Justice, Jun. 3, 2008.

¹² Letter from Keith B. Nelson, Principal Deputy Assistant Attorney General, U.S. Department of Justice, to Henry A. Waxman, Chairman, OGR Comm., Jun. 24, 2008.

¹³ *Id.*

¹⁴ *Id.*

In the same letter, Justice officials further explained that “we anticipate offering” still other “remaining interview reports to the Committee” for an “in camera” evaluation.¹⁵

On July 16, 2008, the Department of Justice wrote to Chairman Waxman again. The Principal Deputy Attorney General declared, “the Department is prepared to continue the accommodation approach we have been taking in this matter by making available for Committee review, under the same terms we have previously made reports available, the remaining interview reports . . . and other subpoenaed documents.”¹⁶ The same day, the Committee was informed that the President was invoking executive privilege over subpoenaed materials, including those which “reflect frank and candid deliberations among senior presidential advisors” and between the president and his staff.¹⁷

The Administration has been forthcoming with a large amount of material from top-level officials and their aides which bears upon the question putatively being investigated by the Committee. The Department of Justice has offered a sound recourse to obtain additional information, and the modest amount and type of material which continues to be withheld seems unobjectionable. The executive privilege claim appears to be valid. Significantly, there is no indication that the small amount of withheld data would in any way alter the interpretation of the large volume of information which was made available.

In addition, the Committee never pursued Justice’s offer of other interview reports. The Majority’s apparent disinterest in obtaining access to this material seems to demonstrate that it is more concerned with pursuing confrontational and high-profile activities, rather than methodically gathering information which may actually elucidate the topics being examined. This may be because the voluminous information already gathered by the Committee fails to substantiate oft-repeated allegations, and in many important ways, supports a countervailing narrative.

Material Provided Does Not Indicate Revelation of Covert Status was Intentional

It is incontrovertible that none of the many interview reports delivered or made available to the Committee suggest that any White House official or employee knew that Valerie Plame Wilson was a covert CIA employee at the time they discussed her identity. This provides further context to former Deputy Secretary of State Richard Armitage’s admission that he provided information about Ms. Wilson to columnist Robert Novak and to Mr. Novak’s declaration that neither Mr. Armitage nor CIA representatives informed him that Ms. Wilson was undercover at the time he published the op-ed in which she was mentioned.¹⁸

¹⁵ *Id.*

¹⁶ Letter from Keith B. Nelson, Principal Deputy Assistant Attorney General, U.S. Department of Justice, to Henry A. Waxman, Chairman, House Oversight and Government Reform Committee, Jul. 16, 2008.

¹⁷ Letter from Michael B. Mukasey, Attorney General, U.S. Department of Justice, to George W. Bush, U.S. President, Jul. 15, 2008.

¹⁸ See R. Jeffrey Smith, *Armitage Says He Was Source of CIA Leak; He Says He Did Not Know Covert Status*, WASH. POST (Sep. 8, 2006) A3; Robert D. Novak, *The Prince of Darkness* 5, 7-8, 9-10 (2007).

Most CIA employees are not undercover; discussing their identity is legal. Neither former vice presidential chief of staff Lewis I. “Scooter” Libby, nor any other individual, was prosecuted for leaking classified data.¹⁹ The 302s provide additional evidence supporting the contention that Administration staffers did not knowingly reveal the identity of a CIA employee who they knew to be covert.

At the Committee’s March 2007 hearing, Chairman Waxman acknowledged this possibility. He declared White House officials “may not have known at the time they disclosed this information to the press” that Ms. Plame Wilson was undercover.²⁰ Now that the Committee has obtained information which supports this scenario, a fair and complete inquiry necessitates making this finding absolutely clear.

This knowledge may also help to elucidate the behavior of officials at the time. White House officials were not informed about Ambassador Joseph Wilson’s mission before he anonymously spoke about it in the press in May 2003.²¹ In light of the media attention provided to Mr. Wilson’s allegations of wrongdoing, it seems relevant that Administration officials subsequently sought to learn about his trip, including the details of his selection for it. These circumstances, the White House’s understanding of them, and the fact that Mr. Wilson’s statements about the intelligence varied from assessments provided by the CIA, are inextricably entwined.

Inquiry Raises Questions about Valerie Plame Wilson’s Testimony

While the materials provided to the Committee help to clarify White House actions, other information obtained by the Committee in the course of this investigation raises different concerns. Taking sworn testimony from Ms. Plame Wilson in an open Committee hearing was a component of the Committee’s inquiry into this matter.²² Because some of Ms. Plame Wilson’s testimony differed from the account provided in a bipartisan, unanimous report of the U.S. Senate Select Committee on Intelligence (SSCI) issued in 2004, Chairman Waxman then-Ranking Member Tom Davis and sent separate letters to the CIA Director making request for information to a letter in May 2007 to the CIA Director reiterating previous individual requests for information to help to reconcile

¹⁹ See Indictment, *United States v. I. Lewis Libby*, (2d Cir. Oct. 31, 2003) (available at <http://www.washingtonpost.com/wp-dyn/content/article/2005/10/28/AR2005102801086.html> [last visited Sep. 26, 2008]).

²⁰ *Hearing on White House Procedures for Safeguarding Classified Information before the House Oversight and Government Reform Committee* (Mar. 16, 2007) at Draft Tr. 92 (statement of Henry A. Waxman, Chairman, OGR Comm.).

²¹ S. Rep. No. 108-301, at 43, 46, and 74 (Jul. 9, 2004) (*Report of the [Senate] Select Committee on U.S. Intelligence* [hereinafter “SSCI”] *Community’s Prewar Intelligence Assessments on Iraq with Additional Views*) [hereinafter “Jul. 9, 2004 SSCI Report”]. [Portions of the text on page 74 of the *Jul. 9, 2004 SSCI Report* are redacted; the relevant unredacted text is available at S. Rep. No. 110-57, at 220 (May 25, 2007) (*Report of the [Senate] Select Committee on Intelligence on Prewar Intelligence Assessments about Postwar Iraq together with Additional Views* [hereinafter “May 25, 2007 SSCI Report”] (included in *Additional Views of SSCI Vice Chairman Bond, Sen. Hatch, and Sen. Burr*)).

²² Letter from Henry A. Waxman, Chairman, OGR Comm., to Patrick Fitzgerald, Special Counsel, U.S. Department of Justice, Jul. 16, 2007.

these discrepancies.²³²⁴ When the CIA responded that making this information available was the responsibility of the HPSCI, Chairman Waxman and Mr. Davis sent another letter, asserting the Oversight and Government Reform Committee's proper jurisdiction in this matter, and reiterated their previous requests.²⁵

In a July 17, 2008 letter to Chairman Waxman, Mr. Davis renewed his request that the Oversight and Government Reform Committee turn its attention to the veracity of Ms. Plame Wilson's testimony.²⁶ Mr. Davis pointed out that:

[P]roviding consistent testimony to this or any other Congressional Committee is our absolute concern and can not be balanced against any other. Where there is a strong concern that a witness may not have provided this Committee with full and complete information or unclear testimony, it is the duty and obligation of this Committee to inquire and resolve the matter.²⁷

Although Chairman Waxman never replied to this letter, on September 16, 2008, Messrs. Davis and Christopher Shays again asked that HPSCI make available certain responsive documents.²⁸ On October 29, Messrs. Davis and Shays received a letter from HPSCI Chairman Silvestre Reyes. The correspondence, dated September 25, declared "most of the documents requested are not in the files of the [intelligence] Committee."²⁹ However, Chairman Reyes conceded that "[y]esterday, the Republican staff of our Committee produced one document, a classified internal CIA cable, purporting to represent one of the documents you requested."³⁰ He explained "[o]nce I have an opportunity to review this document and other information you requested with the appropriate Intelligence Community officials, our Committee will consider your request in full."³¹

Although Chairman Reyes has apparently taken no further action in the two months since this letter was drafted, it did spark a response from HPSCI Ranking Member Peter Hoekstra. On November 17, Mr. Hoekstra wrote Chairman Reyes that

²³ Letter from Tom Davis, Ranking Member, OGR Comm. to General Michael Hayden, Director, Central Intelligence Agency, March 16, 2007; Letter from Rep. Henry A. Waxman, Chairman, OGR Comm. to General Michael V. Hayden, Director, Central Intelligence Agency, Mar. 26, 2007. In this letter, Chairman Waxman expressed his belief that "Ms. Wilson's testimony raises concerns about the accuracy of the [July 2004] Senate [SSCI] Report and the actions of the CIA in providing information to the Senate Committee."

²⁴ Letter from Christopher Walker, Director, Congressional Affairs, Central Intelligence Agency, to Henry A. Waxman, Chairman, OGR Comm., and Tom Davis, Ranking Member, OGR Comm., May 3, 2007.

²⁵ Letter from Henry A. Waxman, Chairman, OGR Comm., and Tom Davis, Ranking Member, OGR Comm., to General Michael Hayden, Director, Central Intelligence Agency, May 11, 2007.

²⁶ Jul. 17, 2008 Davis Letter.

²⁷ *Id.*

²⁸ Letter from Tom Davis, Ranking Member, OGR Comm., and Christopher Shays, Ranking Member, National Security Subcommittee of OGR Comm., to Silvestre Reyes, Chairman, House Permanent Select Committee on Intelligence, and Peter Hoekstra, Ranking Member, House Permanent Select Committee on Intelligence [hereinafter HPSCI Comm.], Sep. 16, 2008.

²⁹ Letter from Silvestre Reyes, Chairman, HPSCI Comm., to Tom Davis, Ranking Member, OGR Comm., and Christopher Shays, Ranking Member, National Security Subcommittee of OGR Comm., Sep. 25, 2008.

³⁰ *Id.*

³¹ *Id.*

materials sought by Messrs. Davis and Shays “should be provided immediately.”³² He argued that “the purported ‘consultation’ is not excuse to delay the matter,” especially since “the requested documents may contain evidence of a criminal offense.”³³

Since September 2003, Chairman Waxman has written nearly fifteen times to Administration officials and agencies about “allegations that White House officials breached national security law by disclosing the identity of a CIA agent.”³⁴ In this period, Chairman Waxman requested that the Government Accountability Office study the matter,³⁵ he and Mr. Davis met privately with Joseph Wilson to learn the ambassador’s views, and Chairman Waxman introduced a related Resolution of Inquiry before the House of Representatives.³⁶

These actions appear to be predicated upon the belief that those who publicly discussed Ms. Plame Wilson’s employment did so with the knowledge that she was undercover. The Majority seems to ignore the possible connection between Mr. Wilson’s dispatch to Niger and his wife’s employment. They also persistently assume that Valerie Plame Wilson and Ambassador Joseph Wilson are reliable sources upon which to base an understanding of the situation.³⁷ As indicated here, this is all dubious speculation. Questioning these points is fair; it is not an indication of partisan animus.

In light of the Majority’s reliance on assertions by Valerie Plame Wilson and Joseph Wilson to inform their perception of events, the inattention to questions about Ms. Plame Wilson’s veracity is especially troubling. On October 22, 2008, Rep. Issa, notified Chairman Waxman that HPSCI had received information from the CIA which he believed called into serious question whether some aspects of Ms. Plame Wilson’s 2007 testimony before the Oversight and Government Reform Committee was truthful. (Mr. Issa’s letter and attachments are included as an appendix to this report.)

Chairman Waxman’s failure to respond to Mr. Issa’s communication, together with the timing and wording of Mr. Reyes’ letter to Messrs Davis and Shays, seem to demonstrate a disinterest in pursuing a potentially grave matter. This may be because the Majority does not want to depart from their preferred narrative.

In a 2005 letter about Ambassador Wilson’s assertions about his findings in Niger, Chairman Waxman argued “Ambassador Joe Wilson was in effect a government

³² Letter from Peter Hoekstra, Ranking Member, HPSCI Comm., to Silvestre Reyes, Chairman, HPSCI Comm., Nov. 17, 2008.

³³ *Id.*

³⁴ Letter from Rep. Henry A. Waxman, Chairman, OGR Comm., to the Honorable Tom Davis, Ranking Member, OGR Comm., Sept. 29, 2003.

³⁵ Letter from Rep. Nancy Pelosi, Democratic Leader, U.S. House of Reps., Sen. Tom Daschle, Democratic Leader, U.S. Senate, Rep. Henry A. Waxman, Ranking Member, OGR Comm., Sen. Joseph I. Lieberman, Ranking Member, Comm. on Govt. Affairs, U.S. Senate, Rep. John Conyers, Jr., Ranking Member, Comm. on the Judiciary, U.S. House of Reps., Sen. John D. Rockefeller, IV, Ranking Member, Select Comm. on Intelligence, U.S. Senate to the Honorable David M. Walker, Comptroller General, U.S. General Accounting Office, Jan. 26, 2004.

³⁶ H. Res. 363, 109th Congress (2006).

³⁷ For a discussion of varying accounts provided by Joseph Wilson, see July 9, 2004 SSCI Report at 44-45.

whistleblower” and that “his wife was outed in retaliation for Ambassador Wilson’s disclosures.”³⁸ While this Committee has found no evidence to sustain either characterization, it has been apprised of complaints from an *actual whistleblower* who apparently takes exception to portions of Ms. Plame Wilson’s sworn testimony before us.

Therefore, it is essential that the Oversight and Government Reform Committee now join with HPSCI to ensure that these complaints receive the full and prompt attention they deserve. While the CIA properly undertakes its investigation (and is expected to keep HPSCI fully informed of its progress), the Oversight and Government Reform Committee must conduct its own independent inquiry into statements made by Ms. Plame Wilson. This should be done, of course, in a way which is neither predicated upon nor intended to inhibit the CIA’s independent study nor HPSCI’s prerogatives in this matter. It is also necessary to determine if the CIA has referred the issue to the Department of Justice for possible criminal prosecution.

Letting this matter drop is intolerable. The possibility that false statements were made before this Committee must be pursued.

Ms. Plame Wilson’s Efforts on Behalf of Her Husband

The 2004 bipartisan, unanimous SSCI report addressed Ms. Plame Wilson’s role in her husband’s mission. SSCI concluded that “interviews and documents provided to the Committee indicate that his wife . . . suggested his name for the trip.” The SSCI evaluation also noted a CIA “reports officer” recalled that Plame Wilson “offered up” her husband for the assignment. In support of this contention, SSCI cited a February 12, 2002 memorandum written by Ms. Plame Wilson.³⁹

In May 2007, SSCI released the full text of this document. In it Ms. Plame Wilson states to her colleague:

Now, with this report, it is clear that the IC is still wondering what is going on... my husband has good relationships with both the PM and the former Minister of Mines (not to mention lots of French contacts), both of whom could possibly shed light on this sort of activity. To be frank with you, I was somewhat embarrassed by the Agency’s sloppy work last go around and I am hesitate to suggest anything again. However, [my husband] may be in a position to assist. Therefore, request your thoughts on what, if anything to pursue here.⁴⁰

³⁸ Letter from Rep. Henry A. Waxman, Chairman, OGR Comm. to Rep. Tom Davis, Ranking Member, OGR Comm., Oct. 28, 2005.

³⁹ Jul. 9, 2004 SSCI Report at 39 (ellipses added). For further discussion of this issue, see Mark R. Levin, *Valerie’s No Victim*, NATIONAL REVIEW ONLINE, Jul. 18, 2005.

⁴⁰ May 25, 2007 SSCI Report at 207 (quoting full text of e-mail from Valerie Plame Wilson to CI/DO/[office 1] (Feb. 12, 2002)).

Ms. Plame Wilson's aggressive lobbying to secure a CIA mission for her husband poses several questions relevant to the Committee's inquiry. It seems problematic for a covert employee to seek to engage a spouse in such an endeavor, if for no other reason because of the risk it may present to the employee's cover. Surely Ms. Plame Wilson should have anticipated her husband's penchant for the media limelight, counterposed with his antipathy to the Administration and its policies, and realized his involvement raised the possibility of her exposure even had events not transpired as they did. A covered employee who uses his or her position to promote the career of an uncovered spouse necessarily imperils the employee's covert status. In doing so, the employee also endangers those foreign sources with whom he or she has been associated. The Majority has shown no inclination to pursue this troubling aspect of the Plame Wilson matter.

Other Related Issues Should be Investigated

The 302s made available to the Committee raise other important questions, albeit again not those the Majority seeks to emphasize. Some of the FBI reports pertain to the circumstances and background of Robert Novak's encounter on July 8, 2003, with an individual on a Washington, D.C., street corner, a few blocks from the Department of State, just minutes after Mr. Novak departed a meeting with Deputy Secretary Armitage in which Mr. Armitage mentioned Ms. Wilson's place of employment.⁴¹

Mr. Davis also wrote to Chairman Waxman on this point on July 17, 2008. Mr. Davis declared:

Certainly serendipity is part and parcel of human existence. Coincidences, random occurrences, and accidents of timing happen regularly. This could certainly be the case here. On the other hand, if this individual somehow had reason to suspect that Mr. Armitage had spoken about Ms. Wilson to Mr. Novak minutes before his and Mr. Novak's encounter, and if he met up with Mr. Novak with the hopes of confirming this fact, then Mr. Wilson, even before the onset of the FBI's investigation, had reason to believe that Mr. Novak's source of information about Ms. Wilson's place of employment was in fact *not* in the White House.⁴²

In light of the relevance of the 302s to this query, Mr. Davis urged Chairman Waxman to investigate this aspect further.⁴³ As indicated above, Chairman Waxman has not replied to Mr. Davis' July 17, 2008 letter.

In addition, FBI interview records and other available data contribute to the Committee's understanding of how the Central Intelligence Agency interpreted and communicated Iraq-related nuclear intelligence before the war. The unanimous bipartisan SSCI evaluation concluded in 2004 that "[f]or most analysts," the written summation of Ambassador Joseph Wilson's trip to Niger, which was circulated to CIA

⁴¹ Jul. 17, 2008 Davis Letter.

⁴² *Id.*

⁴³ *Id.*

evaluators, “lent *more credibility*” to the intelligence reports that Iraq had been seeking yellowcake.⁴⁴ Indeed, SSCI found 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.”⁴⁵

These beliefs seem sincere. SSCI and the Robb-Silberman Commission (formally the “Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction”) investigated the possibility that intelligence estimates were skewed because of the influence of Administration officials. The bipartisan unanimous SSCI report declared the “Committee 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.”⁴⁶ Similarly, the Robb-Silberman panel concluded 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.”⁴⁷

The CIA’s analytical confidence with the Niger intelligence is additionally demonstrated by SSCI’s further conclusion that the doubt expressed by the Agency to the White House, the Senate, and the British government in September and October 2002 about the yellowcake intelligence was erroneous. SSCI identified communication and procedural flaws which led to these missteps.⁴⁸ These findings were declassified in May 2007.

Mr. Davis’ July 17, 2008 letter to Chairman Waxman noted the “enormous” ramifications of these errors which “allowed allies, policy-makers, and legislative overseers to be misinformed.”⁴⁹ He said, “a failure to comprehend this miscommunication, led others to later propagate the myth that CIA analysts took exception to intelligence about potential Iraqi efforts to obtain uranium.”⁵⁰ In his correspondence, Ranking Member Davis implored Chairman Waxman to direct the

⁴⁴ Jul. 9, 2004 SSCI Report at 73. *emphasis added*. [Portions of the text on page 73 of the Jul. 9, 2004 SSCI Report are redacted; the relevant unredacted text is available at May 25, 2007 SSCI Report at 219-20 (included in Additional Views of SSCI Vice Chairman Bond, Sen. Hatch, and Sen. Burr).]

⁴⁵ *Id.* 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 May 25, 2007 SSCI Report at 220-22 (included in Additional Views of SSCI Vice Chairman Bond, Sen. Hatch, and Sen. Burr).]

⁴⁶ *Id.* at 273; 273-283.

⁴⁷ 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, 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.*

⁴⁸ 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 May 25, 2007 SSCI Report at 220-22 (included in Additional Views of SSCI Vice Chairman Bond, Sen. Hatch, and Sen. Burr).]

⁴⁹ Jul. 17, 2008 Davis Letter.

⁵⁰ *Id.*

Committee to “investigate what procedures or policies the I[ntelligence] C[ommunity] has put in place to prevent such a situation from recurring.”⁵¹

In the past two years, the Committee has conducted sixteen interviews with thirteen individuals involved in this miscommunication. None were aware of the situation as set forth by SSCI. None apparently reviewed the July 2004 SSCI report when it was released, despite having had the necessary clearances at the time to have access to the classified portions, nor had they considered those sections once they were declassified in May 2007. Nonetheless, when presented with the information in the Committee’s interview, one conceded the communications confusion as described in the report. Another has publicly conveyed a recollection which asserts an alternative chronology of key events, without endeavoring to explain how it can be reconciled with SSCI’s findings. These are startling revelations. In the midst of a war-time Presidential transition in which the smooth functioning of the Intelligence Community seems crucial, this seems to be an appropriate and fertile area for Committee inquiry. These topics, too, must be explored in the next Congress.

⁵¹ *Id.*

Appendix

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REPUBLICAN POLICY COMMITTEE

October 22, 2008

The Honorable Henry A. Waxman
Chairman
Committee on Oversight and Government Reform
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

Tomorrow the Committee will consider a report about the President's assertion of executive privilege. The report pertains to certain records collected during Special Counsel Patrick Fitzgerald's investigation into the circumstances in which Valerie Plame Wilson's covert status at the Central Intelligence Agency became known. Accordingly, it seems a propitious time to consider a very important related issue.

Material has recently come to my attention about the possibility that false or misleading testimony was given to this Committee. The Director of Congressional Affairs for the Central Intelligence Agency has forwarded information to the House Permanent Select Committee on Intelligence (HPSCI) from an employee that raises an "urgent concern" relating to "[a] false statement to Congress, or a willful withholding from Congress, on an issue of material fact relating to the funding, administration, or operation of an activity." As a Member of HPSCI, I have had an opportunity to review the transmittal and I believe it calls into serious question whether Valerie Plame Wilson's March 16, 2007 testimony before the Oversight and Government Reform Committee was truthful.

The transmittal has reinforced questions about Ms. Plame Wilson's testimony which were raised by Ranking Member Davis, including in his letter to you of July 17, 2008,¹ and (along with Mr. Shays) in a September 16, 2008 letter to HPSCI.² Chairman

¹ Letter from Rep. Tom Davis, Ranking Member, the Committee on Oversight and Government Reform [hereinafter OGR Comm.], to Rep. Henry A. Waxman, Chairman, OGR Comm., (Jul. 17, 2008)

² Letter from Rep. Tom Davis, Ranking Member, OGR Comm., and Rep. Christopher Shays, Ranking Member, National Security Subcomm. of OGR Comm., to Rep. Silvestre Reyes, Chairman, House

Reyes refused to even consider the latter request to review certain materials in HPSCI's possession, despite the obvious relevance to investigation of a potential criminal offense.

I appreciate the courage of this whistleblower in coming forward. I urge the Committee to work on a bipartisan basis with HPSCI to ensure that this serious matter is promptly and carefully reviewed.

Sincerely,

A handwritten signature in black ink, appearing to read "Darrell Issa", written in a cursive style.

Darrell Issa

cc: The Honorable Tom Davis,
Ranking Republican Member

Central Intelligence Agency



Washington, D.C. 20505

12 September 2008

The Honorable Peter Hoekstra
Ranking Minority Member
Permanent Select Committee on Intelligence
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Hoekstra:

Attached please find a memorandum from the Inspector General to the Director of the Central Intelligence Agency dated 5 September 2008. On behalf of the Director, I am transmitting this memorandum to your Committee pursuant to 50 U.S.C. sec. 403q(d)(5). According to the statute, an "urgent concern" may include "A false statement to Congress, or a willful withholding from Congress, on an issue of material fact relating to the funding, administration, or operation of an activity."

Please be advised that the Director has been informed by the Office of Inspector General (OIG) that OIG is in the process of determining if further action is required on the matter contained in the enclosed memorandum.

Sincerely,

A handwritten signature in black ink, appearing to read "C. Walker", with a long horizontal line extending to the right.

Christopher J. Walker
Director of Congressional Affairs

Enclosure

UNCLASSIFIED when
Separated from
Attachment

CL BY: 2088194
CL REASON: 1.4(c)
DECL ON: 20330905
DRV FROM: COV S-06