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Report No. 07-INTEL-04

February 9, 2007

Review

Inspector General

United States
Department *of* Defense



DEPUTY INSPECTOR GENERAL FOR INTELLIGENCE

**Review of the Pre-Iraqi War Activities of the Office
of the Under Secretary of Defense for Policy**

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Acronyms (U)

ASD(ISA)	Assistant Secretary of Defense, Office of International Security Affairs
CIA	Central Intelligence Agency
DCI	Director of Central Intelligence
DIA	Defense Intelligence Agency
DNI	Director of National Intelligence
IC	Intelligence Community
JITF-CT	Joint Intelligence Task Force - Combating Terrorism
OSD	Office of the Secretary of Defense
OSP	Office of Special Plans
OUSD(P)	Office of the Under Secretary of Defense for Policy
PCTEG	Policy Counter Terrorism Evaluation Group
SSCI	Senate Select Committee on Intelligence

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INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
400 ARMY NAVY DRIVE
ARLINGTON, VIRGINIA 22202-4704

February 9, 2007

MEMORANDUM FOR UNDER SECRETARY OF DEFENSE FOR POLICY

SUBJECT: Report on Review of the Pre-Iraqi War Activities of the Office of the Under Secretary of Defense for Policy (Report No. 07-INTEL-04) (U)

(U) We are providing this report for information and use. We performed this review in response to a congressional request. We considered management comments on a draft of this report when preparing the final report. We deleted the draft recommendation from the report; therefore, no written response to this report is required.

(U) We appreciate the courtesies extended to the staff. Questions should be directed to [REDACTED] at (703) 604-[REDACTED] (DSN 664-8896) or [REDACTED] at (703) 604-8818 (DSN 664-[REDACTED]). See Appendix J for the report distribution. The evaluation team members are listed inside the back cover.

[Handwritten signature]
Thomas F. Gimble
Acting

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Department of Defense Office of Inspector General

Report No. 07-INTEL-04
(Project No. D2006-DINT01-0077.000)

February 9, 2007

**Review of Pre-Iraqi War Activities of the Office of the
Under Secretary of Defense for Policy (U)**

Executive Summary (U)

(U) Who should read this report and why. Personnel within DoD who are responsible for monitoring and providing official oversight of DoD intelligence issues should read this report because it discusses the issue of whether or not the Office of the Under Secretary of Defense for Policy conducted unauthorized, unlawful or inappropriate “Intelligence Activities”¹ during the pre-war period leading up to war with Iraq.

(U) Background. On July 7, 2004, the Senate Select Committee on Intelligence released a classified report, “Report on the U.S. Intelligence Community’s Pre-War Intelligence Assessments on Iraq” that was critical of the Intelligence Community assessments on Iraq, further concluding that the “Intelligence Community analysts lacked a consistent post-September 11th approach to analyzing and reporting on terrorism threats.”

(U) On October 21, 2004, Senator Carl Levin released an unclassified report that the Senate Armed Services Committee Minority Staff prepared entitled, “Report of an Inquiry into the Alternative Analysis of the Issue of an Iraq-al Qaeda Relationship.” This report substantively challenged some of the conclusions in the Senate Select Committee on Intelligence committee report and stated that the Office of the Under Secretary of Defense for Policy inappropriately produced an alternative analysis. The report stated that analysis provided by the Office of the Under Secretary of Defense for Policy exaggerated a connection between Iraq and al-Qaida while the Intelligence Community remained consistently dubious of such a connection.

(U) On September 9, 2005, Senator Pat Roberts, Chairman of the Senate Select Committee on Intelligence, requested that the Office of Inspector General, Department of Defense review whether the Office of Special Plans, “at any time, conducted unauthorized, unlawful or inappropriate intelligence activities.” The term Office of Special Plans has become generic terminology for the activities of the Office of the Under Secretary of Defense for Policy, including the Policy Counter Terrorism

¹ DoD Directive 5240.1 defines *Intelligence Activities* as “the collection, production, and dissemination of foreign intelligence and counterintelligence by DoD intelligence components authorized under reference (b).” Reference (b) is Executive Order 12333, United States Intelligence Activities,” December 4, 1981.

Evaluation

Group and Policy Support Office. The actual Office of Special Plans had no responsibility for and did not perform any of the activities examined in this review. (Appendix C).

(U) On September 22, 2005, Senator Carl Levin requested the Office of Inspector General, Department of Defense to review the activities of the Office of the Under Secretary of Defense for Policy, including the Policy Counter Terrorism Evaluation Group and Policy Support Office, to determine if any of the activities were either inappropriate or improper and if so, provide recommendations for remedial action. He also provided a list of 10 questions to consider during our review. (Appendix D; Appendix G is our response to the 10 questions).

(U) **Results.** The Office of the Under Secretary of Defense for Policy developed, produced, and then disseminated alternative intelligence assessments on the Iraq and al-Qaida relationship, which included some conclusions that were inconsistent with the consensus of the Intelligence Community, to senior decision-makers. While such actions were not illegal or unauthorized, the actions were, in our opinion, inappropriate given that the intelligence assessments were intelligence products and did not clearly show the variance with the consensus of the Intelligence Community. This condition occurred because of an expanded role and mission of the Office of the Under Secretary of Defense for Policy from policy formulation to alternative intelligence analysis and dissemination. As a result, the Office of the Under Secretary of Defense for Policy did not provide “the most accurate analysis of intelligence”² to senior decision-makers.

(U) **Management Comments.** The Under Secretary of Defense for Policy and Director, Defense Intelligence Agency provided comments on the draft report. The complete responses are included in the Management Comments section of the report. The Under Secretary of Defense for Policy did not concur with the report stating that their actions were not intelligence activities and, even if they were, would be appropriate given that they were responding to direction from the Deputy Secretary of Defense. Further, he states that their assessment on a “cooperative” Iraq-al Qaida relationship was consistent with the Director of Central Intelligence’s own statements to Congress in 2002. The Director, Defense Intelligence Agency comments were administrative in nature and were completely integrated into the final report.

(U) **Evaluation Response.** The assessments produced evolved from policy to intelligence products, which were then disseminated. The Deputy Secretary of Defense direction made the action authorized; however, we believe the actions were inappropriate

² Intelligence Community Directive Number 1 dated May 1, 2006, “Policy Directive for Intelligence Community Leadership” describes Intelligence Analysis “to ensure the most accurate analysis of intelligence is derived from all sources to support national security needs.”

because a policy office was producing intelligence products and was not clearly conveying to senior decision-makers the variance with the consensus of the Intelligence Community. The statement of the Director of Central Intelligence included his assessment that "our understanding of the relationship between Iraq and al-Qaida is evolving and is based on sources of varying reliability." Further, analysis of the statement does not support the Under Secretary of Defense for Policy position of a "mature symbiotic relationship" in all areas. The circumstances prevalent in 2002 are no longer present today. We believe that the continuing collaboration between the Under Secretary of Defense for Intelligence and the Office of the Director of National Intelligence will significantly reduce the opportunity for the inappropriate conduct of intelligence activities outside of intelligence channels. As a result, we are not making any recommendations.

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Background (U)

(U) On July 7, 2004, the Senate Select Committee on Intelligence (SSCI) released a classified report, "Report on the U.S. Intelligence Community's Pre-War Intelligence Assessments on Iraq" which was critical of the Intelligence Community's assessments on Iraq. The report further concluded that the "Intelligence Community analysts lacked a consistent post-September 11th approach to analyzing and reporting on terrorism threats."

(U) On October 21, 2004, Senator Carl Levin released an unclassified report that the minority staff of the Senate Armed Services Committee prepared, "Report of an Inquiry into the Alternative Analysis of the Issue of an Iraq-al Qaeda Relationship." The report challenged some of the conclusions in the SSCI report, stating that the Office of the Under Secretary of Defense for Policy [OUSD(P)] inappropriately produced an alternative analysis, and described that analysis of the relationship between Iraq and al-Qaida as one of "operational cooperation." The report stated that the OUSD(P) exaggerated Iraq's relationship with al-Qaida primarily to support the Administration's policy aims to find a strong connection between Iraq and al-Qaida. Further, the Intelligence Community consistently doubted such a connection.

(U) On September 9, 2005, Senator Pat Roberts, Chairman of the Senate Select Committee on Intelligence, requested that the Office of Inspector General, Department of Defense review whether the Office of Special Plans (OSP), "at any time, conducted unauthorized, unlawful or inappropriate intelligence activities." (See Appendix C.) The term OSP has become generic terminology for the activities of the OUSD(P), including the Policy Counter Terrorism Evaluation Group (PCTEG) and Policy Support Office. The actual OSP had no responsibility for and did not perform any of the activities examined in this review.

(U) On September 22, 2005, Senator Carl Levin requested that the Office of Inspector General, Department of Defense review the activities of the OUSD(P), including the PCTEG and Policy Support Office to determine whether any of their activities were either inappropriate or improper, and, if so, provide recommendations for remedial action. He also provided 10 questions for us to consider during the review. (See Appendix D; Appendix G is the evaluators' response to the 10 questions.)

(U) **Under Secretary of Defense for Policy.** The USD(P) is the principal staff assistant and advisor to the Secretary of Defense and the Deputy Secretary of Defense for all matters on the formulation of national security and defense policy and the integration and oversight of DoD policy and plans to achieve national security objectives as defined by DoD Directive 5111.1, December 8, 1999.

~~(S)~~ **Assistant Secretary of Defense, Office of International Security Affairs [ASD (ISA)].** The Office of International Security Affairs formulates and coordinates international security strategy and policy for OUSD(P) on issues of DoD interest that relate to foreign regions and nations, their governments, and the defense establishments. ASD(ISA) was instrumental early in 2002 in responding to the inquiries of the Deputy Secretary of Defense regarding links between Iraq and al-Qaida.

~~(S)~~ **Policy Support Office.** The Policy Support Office assisted the OUSD(P) in developing national security and defense policy by providing infrastructure support, personnel, and information technology and security until June 2002, when it transferred to the newly created Office of the Under Secretary of Defense for Intelligence. The Policy Support Office requested detailees from the Defense Intelligence Agency (DIA) because of "the voluminous amounts of intelligence the office was receiving but was unable to assess." From January 2002 through November 2003 DIA detailed an intelligence specialist to the Policy Support Office within the OUSD(P).

~~(S)~~ **The Policy Counter Terrorism Evaluation Group.** According to an Action Memo dated November 26, 2001, for the Deputy Secretary of Defense from the ASD (ISA), the purpose was to "Obtain approval of creation of a Team B, called the Policy Counter Terror Evaluation Group (PCTEG). Through independent analysis and evaluation, the PCTEG would determine what is known about al-Qaida's worldwide terror network, its suppliers, and relationship to states and other international terrorist organizations..."

~~(S)~~ As envisioned the PCTEG would function under the joint chairmanship of the Principal Deputy Assistant Secretary of Defense for Special Operations/Low Intensity Conflict and the Deputy Assistant Secretary of Defense for Near East and South Asia Affairs. The ASD(ISA), with permission from the USD(P), tasked the PCTEG with studying al-Qaida's worldwide organization, including its suppliers, its relations with States and with other terrorist organizations (and their suppliers), identifying "chokepoints" of cooperation, coordination, and vulnerabilities, and recommending strategies to render the terrorist networks ineffective. The PCTEG, however, never included more than two analysts so the Chairmanship issue never attained a level of operational formality. In letters to Senator Warner and Representative Harman on June 21, 2003, Mr. Feith, then USD(P), described the purpose of the PCTEG as to "help me develop proposals for Defense Department strategies for the war on terrorism, which is a policy exercise, not an intelligence activity."

~~(S//NF)~~ Following a USD(P) request to the Director, DIA for support from the Intelligence Community, DIA detailed two junior Naval Reservist Intelligence Analysts to OUSD(P) in February 2002 to replace the two existing OUSD(P)

members. The PCTEG produced a briefing in support of policy development in June 2002, "Understanding the Strategic Threat of Terror Networks and their Sponsors."

~~(S//NF)~~ During the summer of 2002, following the deactivation of one of the two Naval Reservists, the one remaining detailed intelligence analyst reviewed intelligence data to determine whether there were links between Iraq and al-Qaida. At the direction of the Deputy Secretary of Defense, the Special Assistant to the Deputy Secretary of Defense, a member of the OUSD(P) Policy Support Office, and the remaining PCTEG detailee collaborated to create a briefing, marked "Draft," "Assessing the Relationship Between Iraq and al-Qaida," which they briefed to the Secretary of Defense on August 8, 2002. On August 15, 2002, they provided a similar briefing, marked "Draft," with the same title to Mr. George Tenet, then Director of Central Intelligence (DCI) and VADM Lowell "Jake" Jacoby, then Director, DIA. On September 16, 2002, the OUSD(P) provided a similar version of the briefing, marked "Draft," to Mr. Stephen Hadley, then Deputy National Security Advisor, as requested, and Mr. I. Lewis Libby, then Chief of Staff of the Office of the Vice President. The PCTEG as an organization ceased to exist shortly thereafter.

(U) The Office of Special Plans. The OUSD(P) created the OSP in October 2002 by renaming and expanding the OUSD(P) Near East and South Asia office's Northern Gulf Directorate to concentrate on policies for Iran, Iraq, and the Global War on Terror. In his June 21, 2003, letters to Senator Warner and Representative Harman, Mr. Feith described the OSP as a policy planning group and a consumer, rather than a producer of intelligence. In a February 3, 2004, letter to Senator Levin, Mr. Feith described the purpose of the OSP as having been, "...created to serve as the regional office for Northern (Persian) Gulf affairs and as the lead office within the Policy organization of the Office of the Secretary of Defense (OSD) for developing U.S. strategy and policy for the global war on terrorism." The OSP was renamed as the Office of Northern Gulf Affairs, remaining in Near East/South Asia as before, and its personnel continued to perform their policy functions for that region.

Objectives (U)

(U) The review objective was to determine whether personnel assigned to the OSP, the PCTEG, and the OUSD(P) conducted unauthorized, unlawful, or inappropriate intelligence activities from September 2001 through June 2003. If so, the OIG was to provide recommendations for remedial action. See Appendix A for a discussion of the scope and methodology and related report coverage.

Office of the Under Secretary of Defense for Policy's Use of Intelligence (U)

(U) Those charged with protecting America must have the best possible intelligence information, and that information must be closely integrated to form the clearest possible picture of the threats to our country.

President George W. Bush
December 17, 2004

(U) The Office of the Under Secretary of Defense for Policy [OUSD(P)] developed, produced, and then disseminated alternative intelligence assessments on the Iraq and al-Qaida relationship, which included some conclusions that were inconsistent with the consensus of the Intelligence Community, to senior decision-makers. While such actions were not illegal or unauthorized, the actions were, in our opinion, inappropriate given that the products did not clearly show the variance with the consensus of the Intelligence Community and were, in some cases, shown as intelligence products. This condition occurred because the OUSD(P) expanded its role and mission from formulating Defense Policy to analyzing and disseminating alternative intelligence. As a result, the OUSD(P) did not provide "the most accurate analysis of intelligence" to senior decision makers.

Guidance (U)

(U) **DoD Directive 5111.1.** DoD Directive 5111.1, "Under Secretary of Defense for Policy [USD(P)]," December 8, 1999, designates the USD(P) as the principal staff assistant and advisor to the Secretary and Deputy Secretary of Defense for all matters on formulating national security and defense policy. The Directive also states that the USD(P) will perform such other functions as the Secretary of Defense may prescribe.

(U) **DoD Directive 5240.1.** DoD Directive 5240.1, "DoD Intelligence Activities," April 25, 1988, is the guidance that DoD intelligence components use to collect, retain, or disseminate information. DoD Directive 5240.1 defines "Intelligence Activities" as "the collection, production, and dissemination of foreign intelligence and counterintelligence by DoD intelligence components authorized under reference (b)." Reference (b) is Executive Order 12333, "United States Intelligence Activities," December 4, 1981. The OUSD(P) is not a designated Intelligence Activity.

(U) DoD Directive 5105.21. DoD Directive 5105.21, "Defense Intelligence Agency," February 18, 1997, details the DIA mission to "satisfy, or ensure the satisfaction of, the military and military-related intelligence requirements of the Secretary and Deputy Secretary of Defense..." The Director, DIA is "the principal advisor on substantive intelligence matters to the Secretary and Deputy Secretary of Defense..." The Executive Order 12333 lists the DIA as a designated Intelligence Activity.

(U) DIA Policy No: 005. On June 5, 2001, the DIA Directorate for Analysis and Production issued DI policy No. 005, "Alternative Judgments Policy," which states that the principal goal of intelligence analysis is to provide customers with the most expert, focused, and multi-disciplinary judgments possible. The policy memo recognizes the value of ideas and concepts that run counter to the prevailing wisdom, by establishing a process within the Intelligence Community for using alternative judgments.

OUSD(P)'s Production and Dissemination of Alternative Intelligence Assessments (U)

~~(S)~~ The OUSD(P) inappropriately developed, produced, and disseminated to senior decision makers alternative intelligence assessments on the Iraq and al-Qaida relationship, which included some conclusions that were inconsistent with the consensus of the Intelligence Community. In its advisory role to the Secretary and Deputy Secretary of Defense, the OUSD(P) requested DIA detailees to perform activities such as assisting in formulating national security and defense policy. In formulating policy, it is appropriate to obtain from and challenge the Intelligence Community to provide support for its Intelligence Findings. As stated in the SSCI Report,³ "The Committee found that this process—the policymakers' probing questions—actually improved the products." However, the intelligence analyst detailees assisted in or produced alternative intelligence assessments that included some conclusions that were inconsistent with those that the chartered-Intelligence Community vetted and produced.

~~(S//NF)~~ **OUSD(P) Used All Available Intelligence.** The USD(P) requested and received detailees from DIA who had access to intelligence databases. The DIA detailees were assigned to the Policy Support Office

³ (U) SSCI (Report), "Report on the U.S. Intelligence Community's Pre-War Intelligence Assessments on Iraq," July 7, 2004.

and PCTEG in 2002. In addition, other DIA Defense Intelligence Officers were assigned to support OUSD(P). The detailees and the DIA Defense Intelligence Officers had access to intelligence databases such as the DIA Joint Worldwide Intelligence Communications System. Interviews revealed that DIA detailees and DIA Defense Intelligence Officers pulled both raw intelligence and finished intelligence production from Joint Worldwide Intelligence Communications System and provided it to OUSD(P) personnel. The DIA Defense Intelligence Officers also provided daily intelligence read packets until their dissolution in the spring of 2003.

~~(S//NF)~~ **The OUSD(P) Produced Alternative Intelligence**

Assessments. Interviews confirmed that DIA detailees conducted independent intelligence analysis for the OUSD(P) that resulted in analytic conclusions and products. While working for the OUSD(P) staff, the detailees performed intelligence analysis and, in several cases, intelligence production, which was not one of USD(P)'s specified functions in DoD Directive 5111.1, "Under Secretary of Defense for Policy."

~~(S//NF)~~ OUSD(P) personnel and the DIA detailees used the same intelligence information as the Intelligence Community to produce their alternative intelligence assessments. In a July 25, 2002 memo, "Iraq and al-Qaida: Making the Case," one OUSD(P) detailee explained the basis for their alternative intelligence assessment, stating, "the following information clearly makes the case for an *Intelligence Finding* (emphasis added)—that Iraq has been complicit in supporting al-Qaida terrorist activities." Further, in translating that alternative intelligence assessment into a briefing, "Assessing the Relationship Between Iraq and al-Qaida," the OUSD(P) performed Intelligence Activity and, more specifically, Intelligence Production.

~~(S//NF)~~ Some of the conclusions in the briefing, "Assessing the Relationship between Iraq and al-Qaida," produced by a collaborative team composed of two OUSD(P) detailees and a former OUSD(P) member who was working in the capacity of Special Assistant to the Deputy Secretary of Defense, were not supported by the Intelligence Community. In fact, the briefing assessed that, "Intelligence indicates cooperation [with al-Qaida] in all categories; mature, symbiotic relationship," and as having a higher degree of cooperation than those conclusions supported by the Intelligence Community. The briefing detailed a relationship between Iraq and al-Qaida in three versions of their briefing, "Assessing the Relationship between Iraq and al-Qaida." Each version included a slide, "What Would Each Side Want From a

Relationship?" According to the briefing, one of Iraq's objectives was a desire for an "Operational surrogate to continue war;" the slide listed al-Qaida as that surrogate. Further, OUSD(P) members briefed an alleged meeting between the 9/11 hijacker Mohammed Atta and al-Ani, an Iraqi Intelligence Service Officer on a slide, "Known Contacts" in all three versions of this brief. The Intelligence Community disagreed with the briefing's assessment that the alleged meeting constituted a "known contact."

~~(S//NF)~~ **Intelligence Community's Intelligence Judgments.** The assessment of the relationship between Iraq and al-Qaida, detailed in both the briefing, "Assessing the Relationship between Iraq and al-Qaida," and the July 25, 2002 memorandum were inconsistent with the Intelligence Community's assessment. The Central Intelligence Agency (CIA) and DIA had published intelligence products with a decidedly different assessment. By the summer of 2002, before OUSD(P) members disseminated the briefing containing an alternative intelligence assessment about the Iraq and al-Qaida relationship, both the DIA and CIA published reports that disavowed any "mature, symbiotic" cooperation between Iraq and al-Qaida. The Intelligence Community was united in its assessment that the intelligence on the alleged meeting between Mohammed Atta and al-Ani was at least contradictory, but by no means a "known contact." The SSCI Phase I Report noted that, "Although the CIA has not ruled out the meeting, its analysis characterized the meeting as highly unlikely."

~~(S//NF)~~ **CIA's Intelligence Judgment.** On June 21, 2002, the CIA published a report, "Iraq and al-Qaida: Interpreting a Murky Relationship," which described the reporting on the alleged meeting of Atta with al-Ani as, "...contradictory, and we have not verified Atta's travel through other channels." The report also stated the CIA view on the Iraq-al-Qaida cooperation as, "Overall, the reporting provides *no conclusive signs of cooperation* (emphasis added) on specific terrorist operations, so discussion of the possible extent of cooperation between Iraq and al-Qa'ida is necessarily speculative."

~~(S//NF)~~ Likewise, a draft August 20, 2002, CIA Report, "Iraqi Support for Terrorism"⁴ characterized the connection between Iraq and al-Qaida as follows:

~~(S//NF)~~ Saddam and Bin Ladin are not natural partners, but have maintained cautious contacts and some shared training. The two

⁴ The final version of this report was published September 19, 2002.

groups nevertheless remained suspicious of each other's motives, and to date we cannot document any joint operational activity between them.

~~(S//NF)~~ **DIA's Intelligence Judgment.** On July 31, 2002, DIA published a Special Assessment, "Iraq's Inconclusive Ties to Al-Qaida," which described the alleged meeting of Atta with al-Ani as having "significant information gaps that render the issue impossible to prove or disprove with available information." The assessment further stated that "compelling evidence demonstrating *direct cooperation* (emphasis added) between the government of Iraq and al-Qaida *has not been established* (emphasis added), despite a large body of anecdotal information."

~~(S//NF)~~ The Intelligence Community's assessment of the Iraq connection with al-Qaida was decidedly less "mature" and by no means "symbiotic" in all categories as the OUSD(P) alleged in its alternative assessment detailed in both the July 25, 2002, memorandum and the briefing, "Assessing the Relationship between Iraq and al-Qaida." In no case did the Intelligence Community's assessment support the assertion that "Intelligence indicates cooperation in all categories; mature, symbiotic relationship." The terms that the Intelligence Community used to describe the relationship between Iraq and al-Qaida were "no conclusive signs," and "direct cooperation... has not been established." Equally, the Intelligence Community disputed the assertion found in the briefing, "Assessing the Relationship between Iraq and al-Qaida," that the alleged meeting of Atta with al-Ani was "known." The Intelligence Community described the meeting as "impossible to prove or disprove" and "contradictory".

~~(S//NF)~~ **Joint Intelligence Task Force – Combating Terrorism (JITF-CT) Judgment.** A DIA Senior Intelligence Analyst working in the Joint Intelligence Task Force – Combating Terrorism (JITF-CT) countered, point-by-point, each instance of an alleged tie between Iraq and al-Qaida mentioned in the July 25, 2002, OUSD(P) memorandum, "Iraq and al-Qaida: Making the Case." The Intelligence Analyst disagreed with most of the OUSD(P) intelligence assessments. Of the 26 points used to support the "Intelligence Finding—that Iraq has been complicit in supporting al-Qaida terrorist activities," the JITF-CT agreed or partially agreed with 11 of the 26. Two OUSD(P) slides, presented as part of a larger briefing to the Secretary of Defense, the DCI, and the Deputy National Security Advisor and Chief of Staff of the Office of the Vice President, each titled "Known Contacts," were extracted from the OUSD(P) paper. On August 9, 2002, in a Memorandum, "JITF-CT Commentary: Iraq and al-Qaida, Making the Case" the JITF-CT

Intelligence Analyst noted that the OUSD(P) memorandum was of “no intelligence value;” in other words, the memorandum’s assessments contradicted the Intelligence Community assessments on both the Iraq relationship with al-Qaida and, specifically, the veracity of the alleged meeting in Prague. He provided his assessment to the Joint Staff J2 for internal consumption. On August 14, 2002, in response to another internal J2 request, the JITF-CT Intelligence Analyst wrote a more detailed Memorandum, “DUSD(PS) Assessment on Iraq-al-Qaida Ties JITF-CT Response,” specifically stating that far from being a “known contact,” the “alleged 8 or 9 April 2001 meeting between Iraqi Intelligence Service officer Ibrahim al-Ani and al-Qaida operative Muhammad Atta is impossible to establish with available information.”

(U) Without Intelligence Community consensus, OUSD(P) officials briefed the alternative intelligence assessment to senior decision makers within the DoD and the Federal Government. The July 25, 2002, memorandum was written in preparation for the August 2002 briefing to the Secretary of Defense. On August 8, 2002, OUSD(P) members presented their briefing, “Assessing the Relationship Between Iraq and al-Qaida” to the Secretary of Defense. The briefing portrayed a “mature, symbiotic” relationship between Iraq and al-Qaida. The Secretary of Defense directed that OUSD(P) brief the DCI. The OUSD(P) eventually presented three different versions of this briefing to the Secretary of Defense, the DCI, and the Deputy National Security Advisor and the Chief of Staff of the Office of the Vice President.

External Dissemination of OUSD(P) Alternative Intelligence Assessment (U)

~~(S//NF)~~ In response to the Secretary of Defense direction, on August 15, 2002, with the USD(P) in attendance, his staffers presented the briefing, “Assessing the Relationship Between Iraq and al-Qaida,” to the DCI, then Mr. George Tenet. Mr. Tenet invited VADM Jacoby, then Director, DIA to attend the briefing. Despite the continued marking as “Draft,” the briefing external to DoD, in our opinion, constituted dissemination. This version of the briefing presented to the DCI omitted the slide, “Fundamental Problems with How Intelligence Community is Assessing Information” because, according to Mr. Feith, “it had a critical tone.” The content of the excluded slide accuses the Intelligence Community of applying a standard requiring juridical evidence for reports, underestimating the importance for both Iraq and al-Qaida to keep their relationship hidden, and assuming that the two would not cooperate

because of religious differences. Additionally, the details regarding the alleged meeting between Mohammed Atta and al-Ani were discussed only on the slide, "Known Contacts," which portrayed the meeting as fact. The Intelligence Community previously disagreed with the assertions in this briefing on the veracity of the alleged meeting between Mohammad Atta and al-Ani and the level of cooperation that the OUSD(P) members ascribed to Iraq and al-Qaida in widely available Intelligence products produced in the spring and summer of 2002.

~~(S//NF)~~ After the USD(P) and his staff departed, the DCI told the Director, DIA to "get this back into analytical channels and out of Policy channels." When we asked the former Director, DIA why he did not take action, he replied that it had fallen off his scope.

~~(S//NF)~~ Mr. Tenet also directed the Intelligence Community to meet with OUSD(P) to discuss the contents of the briefing in relation to a pending CIA Report, "Iraqi Support for Terrorism." As a result, on August 20, 2002, the Intelligence Community held a roundtable discussion on the draft CIA Report, "Iraqi Support for Terrorism" in which members of the OUSD(P) participated fully. The Intelligence Community incorporated some of the OUSD(P) staffers' concerns, mostly about Iraq and al-Qaida ties. The CIA was willing to add footnotes to its report stating that the conclusions represented by the OUSD(P) staffers differed from the CIA paper's findings. The OUSD(P) staffers correctly declined, however, stating that they were acting in a policy capacity and were unable to speak for Defense Intelligence. This indicates that the OUSD(P) staffers knew the limits of their position as detailees to OUSD(P).

~~(S//NF)~~ According to the Under Secretary of Defense for Policy comments to the draft report, following a reference to the briefing at a Deputies Committee meeting in August 2002, the Deputy National Security Advisor requested to receive the briefing.⁵ On September 16, 2002, members of OUSD(P) and the Special Assistant to the Deputy Secretary of Defense presented the briefing, "Assessing the Relationship Between Iraq and al-Qaida" to Mr. Stephen Hadley, then Deputy National Security Advisor, as requested, and Mr. I. Lewis Libby, then Chief of Staff of the Office of the Vice President. This version of the briefing included the slide "Fundamental Problems with How Intelligence Community is Assessing Information," which had been presented to the Secretary of Defense but omitted from the DCI briefing. The slide accuses the Intelligence Community of applying a standard requiring

⁵ During our review we neither found nor when asked, was the OUSD(P) able to provide any documentation to support this chain of events.

juridical evidence for reports, underestimating the importance for both Iraq and al-Qaida to keep their relationship hidden, and assuming that the two would not cooperate because of religious differences. This presentation also included a slide that had not appeared in previous versions of the briefing, "Facilitation: Atta Meeting in Prague," which discussed the alleged meeting between Mohammad Atta and al-Ani in April 2001 in Prague without caveats regarding Intelligence Community consensus.

~~(S//NF)~~ The Intelligence Community's assessment had not changed. The draft August 20, 2002, CIA Report, "Iraqi Support for Terrorism," discussed the relationship between Iraq and al-Qaida as "much less clearcut ... appears to more closely resemble that of two organizations trying to feel out or exploit each other." As far as knowledge or implication in 9/11 goes, the report offers, "no conclusive indication of Iraqi complicity or foreknowledge in the 11 September attacks." Further, the report cites "no conclusive reporting that al-Qa'ida and Iraq collaborated on terrorist operations," and called the reporting on the alleged meeting between Atta and al-Ani as "inconclusive."

(U) The OUSD(P) did not provide "the most accurate analysis of intelligence" to senior decision makers. As this report states, the OUSD(P) produced and disseminated alternative intelligence assessments that included some conclusions that were not supported by the consensus of the Intelligence Community. The Intelligence Community discounted conclusions about the high degree of cooperation between Iraq and al-Qaida; yet the decision makers were given information describing the relationship as "known contacts" or as factual conclusions.⁶

Expanded Role and Mission of the Office of the Under Secretary of Defense for Policy (U)

(U) The OUSD(P) developed and produced alternative intelligence assessments as a result of its expanded roles and mission which evolved in 2001 and 2002 from formulating Defense Policy to critiquing Intelligence Products to conducting Intelligence Activities.

⁶ Noteworthy is that post-war debriefs of Sadaam Hussein, Tariq Aziz, al-Tikriti, and al-Libi as well as document exploitation by DIA all confirmed that the Intelligence Community was correct: Iraq and al-Qaida did not cooperate in all categories. The terms the Intelligence Community used to describe the relationship between Iraq and al-Qaida were validated, "no conclusive signs," and "direct cooperation... has not been established."

~~(S//NF)~~ Even before assigning the DIA detailees to the PCTEG and Policy Support Office, the OUSD(P) was obtaining large volumes of intelligence information. In November 2001, the OUSD(P) requested detailees from DIA because of “the voluminous amounts of intelligence the office was receiving, but was unable to assess.” The additional personnel provided the OUSD(P) with access to Intelligence databases. Such access and use of DIA detailees is appropriate for Defense policy formulation. The June 2002 PCTEG briefing, “Understanding the Strategic Threat of Terror Networks and their Sponsors,” is an example of an appropriate application of intelligence information. On July 9, 2002, at the direction of the Deputy ASD(ISA), in the only case of intelligence critique, the Policy Support Office provided an analysis of a CIA Report, “Iraq and al-Qaida: Interpreting A Murky Relationship” to the USD(P) suggesting that the “CIA’s interpretation ought to be ignored.” However, policy development and intelligence critique evolved into Intelligence Analysis and eventually culminated in the Intelligence Activity of Intelligence Production. The detailees created alternate intelligence assessments and briefed the Secretary of Defense and then disseminated the assessment to the DCI, the Deputy National Security Advisor, and the Chief of Staff of the Office of the Vice President.

~~(S//NF)~~ The mission and role of the OUSD(P) expanded, based, in part, in response to inquiries from the Deputy Secretary of Defense. For example, instead of directing a January 22, 2002, memorandum to the Assistant Secretary of Defense for Command, Control, Communication and Intelligence or the Director, DIA, the Deputy Secretary of Defense directed a memorandum to the USD(P), requesting “input on the progress in pulling together intelligence links between Iraq and al-Qaida” (Appendix E). It appears that the analysis was an on-going effort.

~~(S//NF)~~ The ASD(ISA) responded to the Deputy Secretary of Defense on January 24, 2002 (Appendix F). Part of the response stated, “So far we have discovered few direct links. However, we have uncovered evidence suggesting more robust indirect links.” The cited direct links included the information that Muhammad Atta met twice in Prague with Iraqi Intelligence Service Prague station chief, al-Ani.

~~(S//NF)~~ The ASD(ISA) did not discuss whether the Intelligence Community agreed or disagreed with any of the direct or indirect links identified in the January 24, 2002, product but in a handwritten note, the USD(P) requested, “DSD [Deputy Secretary of Defense], should we organize a briefing for you to review the underlying intel?”

~~(S)~~ Further, in July 2002, based on a conversation one DIA detailee had with the Special Assistant to the Deputy Secretary of Defense, in what she understood to be a response to a request from the Deputy Secretary of Defense to prepare an “intel briefing” on Iraq and links to al-Qaida, in August 2002, two OUSD(P) members and the Special Assistant to the Deputy Secretary of Defense collaborated on creating a briefing with intelligence assessments that were inconsistent with those of the Intelligence Community.

(U) The OUSD(P), in responding to requests from the Deputy Secretary of Defense or Secretary of Defense, may find it necessary to base its work on material that the Intelligence Community produces. It is also appropriate for OUSD(P) to disagree with the Intelligence Community. The OUSD(P) may advance policy assessments reflecting an alternate assessment; however, the OUSD(P) should clearly reflect any disagreement or variance with the Intelligence Community’s assessments and not provide its own intelligence products. The alternative intelligence assessments and the intelligence finding show that the OUSD(P) was producing intelligence products and that the products did not clearly show the areas where OUSD(P) disagreed with the Intelligence Community. As a result, we consider those actions inappropriate.

(U) We recognize that the OUSD(P) performed some of the actions in response to inquiries regarding intelligence briefings from the Deputy Secretary of Defense and at the direction of the Secretary of Defense. One of the specified functions in DoD Directive 5111.1 requires OUSD(P) to “perform such other functions, as the Secretary of Defense may prescribe.” As a result, we consider the actions of the OUSD(P) were not illegal or unauthorized.

Inadequate Procedures (U)

(U) The OUSD(P) developed, produced, and disseminated alternative intelligence assessments which included some conclusions that were inconsistent with the Intelligence Community’s vetted intelligence products because procedures for preparing alternative assessments were insufficient to ensure that the OUSD(P) products clearly reflected any disagreements or variance with the Intelligence Community. Although not required, the OUSD(P) could have used the DIA detailees to follow the existing DIA procedures to request an Alternative Judgment on the relationship between Iraq and al-Qaida from the Defense Intelligence community. Two DIA personnel detailed to OUSD(P) should have been aware of existing procedures and could have used them.

(U) DIA DI Policy No. 005 explains the methods that Defense Intelligence uses to address alternative judgments in those rare instances where consensus cannot be reached.

(U) The first and preferred method for incorporating an alternative analysis is through the standard process of coordination. Analysts are expected to marshal their facts, build coherent arguments, and defend those arguments while coordinating with other experts across the Intelligence Community. In the vast majority of cases, analytic judgments either stand or fall on the merits of their evidentiary base, intrinsic logic and quality. In those rare instances where analysts build a strong case, but cannot achieve consensus support for their analysis, an alternative judgment is justified.

~~(S//NF)~~ While the DIA DI Policy does not apply to OUSD(P) personnel, we believe that the DIA detailee who prepared the July 25, 2002, memorandum, "Iraq and al-Qaida: Making the Case," could have used the standard coordination process to obtain consensus from the Intelligence Community or followed the procedures for developing an Alternative Judgment. Instead, the DIA detailee provided the July 25, 2002, memorandum as an appeal to publish the alternative intelligence assessment as an "Intelligence Finding." In spite of never gaining Intelligence Community agreement to publish the alternative intelligence assessments as an Intelligence Finding, the OUSD(P) disseminated the briefing, "Assessing the Relationship Between Iraq and al-Qaida" in August 2002 produced from the July 25, 2002, memorandum.

Subsequent Action (U)

(U) In 2003, Congress and the Administration acted to strengthen and consolidate the administration of the Defense Department's intelligence capabilities by creating the statutory position of the Under Secretary of Defense for Intelligence that incorporated the intelligence component of the Assistant Secretary of Defense for Command, Control, Communications, and Intelligence.

(U) The "Intelligence Reform and Terrorism Prevention Act of 2004" established both the position of the Director of National Intelligence (DNI) and the National Counterterrorism Center. The DNI is now the principal advisor to the President of the United States and the National Security Council for intelligence matters related to national security. The law also established the DNI position as the sole leader of the United States Intelligence Community responsible for planning, policy,

management, integration, and oversight. The National Counterterrorism Center acts as the principal advisor to the DNI on intelligence operations and analysis relating to counterterrorism.

(U) The National Intelligence Council responds to the DNI and continues to “serve as a unique bridge between the intelligence and policy communities, a source of deep substantive expertise on intelligence matters, and as a facilitator of Intelligence Community collaboration.” The National Intelligence Council is the only organization that provides policy makers with a coordinated assessment of the Intelligence Community’s views on critical issues.

(U) Within the Office of the DNI, the Assistant Deputy Director for Analytic Integrity and Standards assists all Intelligence Community agencies to foster regular production of independent, alternative, and competitive analyses. Specifically, the Analytic Ombudsman works on a confidential basis with analysts who wish to raise concerns regarding whether intelligence products are timely, objective, independent of political considerations, based on all sources of available intelligence, account for dissenting views, distort intelligence analysis, or employ proper analytic tradecraft. The Analytic Ombudsman is a fact finder, mediator, and facilitator to promote conflict resolution, and helps resolve problems and disputes through formal counseling, conciliation, and enhanced communication, as well as making recommendations to the individuals involved.

(U) DoD Directive 5143.01, “Under Secretary of Defense for Intelligence (USD(I)),” November 23, 2005, established the Under Secretary of Defense for Intelligence as the Principal Staff Advisor to the Secretary and Deputy Secretary of Defense regarding intelligence, counterintelligence, security, sensitive activities, and other intelligence-related matters. It further stated that the Under Secretary shall serve as the Secretary of Defense’s primary representative to the Office of the Director of National Intelligence as well as provide policy and oversight on the training and career development of personnel in DoD counterterrorism, intelligence, and security components.

Conclusion (U)

(U) The Office of the Under Secretary of Defense for Policy developed, produced, and then disseminated alternative intelligence assessments on the Iraq and al-Qaida relationship, which included some conclusions that were inconsistent with the consensus of the Intelligence Community, to

senior decision-makers. While such actions were not illegal or unauthorized, the actions were, in our opinion, inappropriate given that the intelligence assessments were intelligence products and did not clearly show the variance with the consensus of the Intelligence Community. This condition occurred because of an expanded role and mission of the OUSD(P) from policy formulation to alternative intelligence analysis and dissemination. As a result, OUSD(P) did not provide “the most accurate analysis of intelligence” to senior Defense decision makers.

(U) The circumstances prevalent in 2002 are no longer present today. The dissolution of the OUSD(P) Policy Support Office, the PCTEG, and the OSP; the creation of the Under Secretary of Defense for Intelligence; and the aggressive efforts of the Director of National Intelligence’s National Intelligence Council and Analytic Integrity and Standards have all contributed to a more favorable operational environment. We believe that the continuing collaboration between the Under Secretary of Defense for Intelligence and the Office of the Director of National Intelligence will significantly reduce the opportunity for the inappropriate conduct of intelligence activities outside of intelligence channels. As a result, we are not making any recommendations.

Management Comments and Response

(U) **Management Comments.** The Under Secretary of Defense for Policy and Director, Defense Intelligence Agency provided comments on the draft report. The complete responses are included in the Management Comments section of the report. The Under Secretary of Defense for Policy did not concur with the report stating that their actions were not intelligence activities and, even if they were, would be appropriate given that they were responding to direction from the Deputy Secretary of Defense. Further, he states that their assessment on a “cooperative” Iraqi-Qaida relationship was consistent with the DCI’s own statements to Congress in 2002. The Director, Defense Intelligence Agency comments were administrative in nature and were completely integrated into the final report.

(U) **Evaluation Response.** The assessments produced evolved from policy to intelligence products, which were then disseminated. The Deputy Secretary of Defense direction made the action authorized; however, we believe the actions were inappropriate because a policy office was producing intelligence products and was not clearly conveying to senior decision-makers the variance with the consensus of the Intelligence Community. The statement of the DCI included his

assessment that “our understanding of the relationship between Iraq and al-Qaida is evolving and is based on sources of varying reliability.” Further, analysis of the statement does not support the OUSD(P) position of a “mature symbiotic relationship” in all areas.

Appendix A. Scope and Methodology (U)

(U) The primary scope of the project was to determine whether the OUSD(P) offices and activities of the former OSP and PCTEG organizations, "...at any time, conducted unauthorized, unlawful or inappropriate intelligence activities." We met with personnel assigned to the OSP, the PCTEG, and the OUSD(P) from September 2001 through June 2003. We performed this review from November 2005 through November 2006 in accordance with the "Quality Standards for Federal Offices of Inspector General."

(U) To achieve our objective, we:

- Interviewed 75 current or former personnel associated with the following organizations:
 - White House Staff (National Security Council);
 - Office of the Director of National Intelligence;
 - Office of the Secretary of Defense;
 - Office of the Under Secretary of Defense for Policy;
 - Office of the Under Secretary of Defense for Intelligence; and
 - Office of the Assistant Secretary of Defense for Command, Control, Communications, and Intelligence
 - Department of the Army;
 - Department of the Navy;
 - Department of the Air Force;
 - U.S. Central Command;
 - Central Intelligence Agency;
 - Federal Bureau of Investigation;
 - Defense Intelligence Agency;
 - U.S. Department of State;
 - National Defense University;
 - Civilian contractors

- Reviewed unclassified and classified documentation produced and available from September 2001 through June 2003 including DoD Directives, testimony, guidance, procedures, reports, studies, briefings, message traffic, e-mails, first-hand accounts, memoranda, and other official data on prewar intelligence and the specific areas of inquiry posed by Congress.
- Assessed information from the SSCI and documents from OUSD(P).

(U) Use of Computer-Processed Data. We did not use computer-processed data to perform this evaluation.

(U) Use of Technical Assistance. The High Tech Crimes Unit, Defense Criminal Investigative Service, assisted us in imaging computer hard-drives to acquire copies of pertinent documents from a Government-owned, classified computer.

(U) Government Accountability Office High-Risk Area. While this evaluation does not specifically address a Government Accountability Office high-risk area, it does address a Secretary of Defense Priority – Significantly improve Intelligence Capabilities.

Appendix B. Prior Coverage (U)

Congress (U)

- (U) SSCI (Phase I Report), "Report on the U.S. Intelligence Community's Pre-War Intelligence Assessments on Iraq," July 7, 2004. (Classified)
- (U) Senator Carl Levin, Ranking Member on the Senate Committee on Armed Services, "Report of an Inquiry into the Alternative Analysis of the issue of an Iraq-al Qaeda Relationship (U)," October 21, 2004.
- (U) SSCI (Phase II Report), "Report on Postwar Findings about Iraq's WMD [Weapons of Mass Destruction] Programs and Links to Terrorism and How They Compare with Pre-War Assessment," September 8, 2006. (Classified)

Appendix C. Senator Roberts' Request (U)

<p>PATRICK J. LEAHY, CHAIRMAN JOHN D. BUDDELLER, VA, VICE CHAIRMAN</p> <p>ROBERT M. BYRD, W. VA. THOMAS J. HARKIN, IA CHARLES E. GRASSLEY, IA THOMAS J. COOPER, SC JAMES E. BROWN, NC JOHN L. HANCOCK, MA JOHN R. DINGELDEIN, MI JOHN F. KERRY, MA JOHN M. KENNEDY, CT JOHN B. STENBERG, NE JOHN D. COOPER, SC JOHN R. DINGELDEIN, MI JOHN F. KERRY, MA JOHN M. KENNEDY, CT JOHN B. STENBERG, NE</p> <p>PAUL T. HAGUE, JR., DELEGATE DANIEL P. SPECTOR, DELEGATE</p> <p>JOHN BROWN, DELEGATE ANDREW W. VOLPE, DELEGATE, STAFF DIRECTOR JOSEPH P. BONOMI, STAFF OFFICER</p>	<p>RALPH J. REED, ARKANSAS THOMAS J. HARKIN, CALIFORNIA DON WEAVER, COLORADO JOHN WEAVER, COLORADO BRIAN D. BENTON, CONNECTICUT JOHN S. CORDEAU, NEW JERSEY</p>	<p>United States Senate SELECT COMMITTEE ON INTELLIGENCE WASHINGTON, DC 20510-0472</p> <p>September 9, 2005</p> <p>The Honorable Joseph E. Schmitz Inspector General Department of Defense 400 Army Navy Drive Arlington, VA 22202</p> <p>Dear Mr. Schmitz:</p> <p>The Committee is concerned about persistent and, to date, unsubstantiated allegations that there was something unlawful or improper about the activities of the Office of Special Plans within the office of the Under Secretary of Defense for Policy during the period prior to the initiation of Operation Iraqi Freedom. The Senate Armed Services Committee and Senate Select Committee on Intelligence have both examined this issue. Both staffs have reviewed thousands of documents and conducted numerous interviews. Under Secretary Feith has appeared before both Committees to testify on this issue. I have not discovered any credible evidence of unlawful or improper activity, yet the allegations persist.</p> <p>Accordingly, I request that you immediately initiate an investigation into the activities of the Office of Special Plans during the period prior to the initiation of Operation Iraqi Freedom to determine whether any of these activities were unlawful or improper. The Committee is specifically interested in knowing whether the personnel assigned to the Office of Special Plans, at any time, conducted unauthorized, unlawful or inappropriate intelligence activities.</p> <p>I believe that an independent review into this matter may allow it to finally be resolved. I look forward to hearing from you.</p> <p>Sincerely,</p> <p><i>Pat Roberts</i> Pat Roberts Chairman</p>
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Appendix D. Senator Levin's Request (U)

ALICE WANG, VINDICA, PHARMAK
 ANTHONY ABRAHAM, ARIZONA
 ANTHONY DE JESUS, OKLAHOMA
 PAT DEBELLO, KANSAS
 JEFF DODDING, ALABAMA
 GENEAN D. FOLKMAN, MARYLAND
 JONATHAN GOLDSTEIN, NEW YORK
 ROBERT HALEY, TEXAS
 RANDY CHANDLER, GEORGIA
 LINDSEY O'GRAHAM, SOUTH CAROLINA
 ELIAS AND COLE, NORTH CAROLINA
 STEPHEN GARNETT, TEXAS
 JAMES THOMAS, TEXAS
 CHARLES AUFIL, STAFF DIRECTOR
 PRACTICE & POLICY COMMITTEE STAFF COORDINATOR

United States Senate
 COMMITTEE ON ARMED SERVICES
 WASHINGTON, DC 20510-6050

September 22, 2005

Mr. Tom Gimble
 Acting Inspector General
 Department of Defense
 400 Army-Navy Drive
 Arlington, VA 22202

Dear Mr. Gimble:

The Chairman of the Senate Select Committee on Intelligence has recently requested that your office initiate an investigation into the activities of the Office of Special Plans, within the Office of the Under Secretary of Defense for Policy, prior to the war in Iraq to determine if its activities were either unlawful or improper.

I am writing to request that you include all the elements of the Office of the Under Secretary of Defense for Policy, including the Policy Counter Terrorism Evaluation Group (PCTEG), and the Policy Support office. Personnel throughout the Policy organization were involved in activities related to intelligence concerning Iraq.

I am enclosing a copy of a report I issued on October 21, 2004 concerning the activities of the Office of the Under Secretary of Defense for Policy in producing alternative intelligence analysis concerning a relationship between Iraq and al Qaeda. I hope that the report may be useful in your review.

Specifically, I would ask that you consider the following questions in your investigation to determine whether OSD Policy personnel engaged in the activities in question:

1. Did the Office of Under Secretary Feith produce its own intelligence analysis of the relationship between Iraq and al Qaeda and present its analysis to other offices in the executive branch (including the Secretary of Defense and the staffs of the National Security Council and the Office of the Vice President)?
2. Did the intelligence analysis produced by Under Secretary Feith's office differ from the Intelligence Community analysis on the relationship between Iraq and al Qaeda?
3. Was the alternative OSD Policy intelligence analysis supported by the underlying intelligence?
4. Did Under Secretary Feith send CIA ORCON material to the Senate Select Committee on

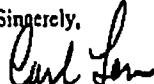
Intelligence in October of 2003 without CIA approval to release it, even though such approval is required by Executive Order?

5. Did Under Secretary Feith mislead Congress when he sent to several congressional committees in January 2004 revised ORCON materials that were represented as containing the CIA's requested changes to the October 2003 documents, but which did not fully and accurately reflect the CIA's requested changes? For instance, did the revised material sent by Under Secretary Feith to congressional committees provide a misleading impression of the reliability and credibility of a key intelligence source, as compared to the CIA's required changes to the document? In other words, did the supposedly "corrected" DOD documents suggest that the source was more reliable and credible (having "very close access") than the CIA believed to be the case (a "third hand" source to a foreign government intelligence service that "does not meet directly with the ultimate source of the information, but obtains the information from him through two unidentified intermediaries, one of whom merely delivers the information to the Service")?
6. Did the Office of the Under Secretary of Defense for Policy (OUSD/P) prepare and present briefing charts concerning the relationship between Iraq and al Qaeda that went beyond available intelligence by asserting that an alleged meeting between lead 9/11 hijacker Mohammed Atta and Iraqi intelligence officer al-Ani in Prague in April 2001 was a "known" contact? (*emphasis added*)
7. Did the staff of the OUSD/P present a briefing on the Iraq-al Qaeda relationship to the White House (Deputy National Security Adviser Stephen Hadley and Vice President Cheney's Chief of Staff I. Lewis Libby) in September 2002, unbeknownst to the Director of Central Intelligence, containing information that was different from the briefing presented to the DCI, not vetted by the Intelligence Community, and that was not supported by the available intelligence (for example, concerning the alleged Atta meeting), without providing the IC notice of the briefing or an opportunity to comment?
8. Did the staff of the OUSD/P undercut the Intelligence Community (IC) in its briefing to the White House staff with a slide that said there were "fundamental problems" with the way the IC was assessing information concerning the relationship between Iraq and al Qaeda, and inaccurately suggesting that the IC was requiring "juridical evidence to support a finding," while not providing the IC notice of the briefing or an opportunity to comment?
9. Did the OSD Policy briefing to the White House draw conclusions (or "findings") that were not supported by the available intelligence, such as the "intelligence indicates cooperation in all categories; mature, symbiotic relationship" [slide7], or that there were "multiple areas of cooperation," and "shared interest and pursuit of WMD," and "some indications of possible Iraqi coordinination with al Qaida specifically related to 9/11" (slide

19]? (*emphasis added*)

10. Did OUSDP staff prepare, and did Under Secretary Feith send to the Secretary of Defense and the Deputy Secretary of Defense, a written critique of a report entitled *Iraq and al Qaeda: Interpreting a Murky Relationship* prepared by the DCI's Counter Terrorism Center (CTC), stating that the "CIA's interpretation ought to be ignored," without providing the CIA notice or an opportunity to respond?

After reviewing these matters, I would ask that you determine whether you believe these activities were appropriate and proper. If you determine that any of the activities were either inappropriate or improper, I request that you provide your recommendations for remedial action.

Sincerely,


Carl Levin
Ranking Member

Enclosure

cc: Senator Pat Roberts
Senator Jay Rockefeller
Senator John Warner

Appendix E. Deputy Secretary of Defense Request for Iraqi Connections to Al Qaida (U)

COPY TO NEBA

22 Jan 02

MEMO FOR Doug Feith
PW
FROM DepSecDef

SUBJECT: Iraqi Connections to Al Qaida

We don't seem to be making much progress pulling together intelligence on links between Iraq and Al Qaida.

We owe SecDef some analysis of this subject.

Please give me a recommendation on how best to proceed.

Appreciate the short turn-around. Thanks.

Suspense: 25 Jan 02

CC: DSD TSA
DSD MA

04600

[Signature]
LIO:1186-102

Appendix F. Assistant Secretary of Defense, Office of International Security Affairs Response to Deputy Secretary of Defense Inquiry (U)

DP DSO BY JAN 25 2002

~~SECRET~~

ASSISTANT SECRETARY OF DEFENSE

2400 DEFENSE PENTAGON
WASHINGTON, DC 20301-2400

INFO MEMO

Y 
D/28 DSO ShowPlace January 24, 2002 5:03 PM

FOR: *Deputy* SECRETARY OF DEFENSE

FROM: Assistant Secretary of Defense, International Security Affairs
[REDACTED]

W/25 JAN 2002

SUBJECT: (S) *[REDACTED]*

(S) *[REDACTED]*

(S) So far we have discovered few direct links. However, we have uncovered evidence suggesting more robust indirect links. This is not surprising given the denial and concealment strategies employed by Saddam's intelligence service.

(S) *[REDACTED]*

(S) Indirect Links:

- Abu Nidhal Organization (ANO) headquartered in Baghdad.
- ANO has following known links to al-Qaida:
 - Bin Laden met in January 1998 with the General Secretary of ANO. Agreed to provide financial assistance in return for unspecified assistance to al-Qaida.

Classified by Multiple Sources
Reason: 1.5(e)(d)
Declassify on: X6

04511

~~SECRET~~

b(1)

b(6)

~~SECRET~~

- Bin-Laden sent his deputy to Lebanon in 1998 to meet with ANO operatives to explore areas of cooperation.
- The al-Qaida cell in Lebanon has received weapons and ammunition from the ANO.
- Vehicle Muhammad Atta used to visit Prague registered to an ANO agent.
- ANO has links with Hezbollah, which in turn has significant links to al-Qaida.
- ANO responds expeditiously and fully to Iraqi government directives (October 2001).
- Iraqi government expressed concern (October 2001) to ANO leaders that Baghdad's alliance with ANO would lead the US to hold Iraq accountable for al-Qaida terrorism.
- Suggests ANO functions to serve Iraqi objectives and that Iraq is aware of ANO ties to al-Qaida.

(S)



COORDINATION: Tab A

Attachments:
As stated

DASD 

~~SECRET~~

b(1)

Appendix G. Senator Levin's Questions and Evaluation Responses (U)

(U) In a September 22, 2005, letter to the DoD Office of the Inspector General, Senator Carl Levin, Ranking Member of the Senate Committee on Armed Services, requested that we consider the following questions in the evaluation.

1. (U) **“Did the Office of Under Secretary Feith produce its own intelligence analysis of the relationship between Iraq and al Qaeda and present its analysis to other offices in the Executive branch (including the Secretary of Defense and the staffs of the National Security Council and the Office of the Vice President)?”**

(U) Yes. In our report we discuss that members of the OUSD(P) produced a briefing on terrorism that was based on intelligence reports. The briefing, which analyzed the relationship between Iraq and Al Qaida, was delivered to the Deputy Secretary of Defense and the Secretary of Defense in August 2002. On September 16, 2002, members of the OUSD(P) briefed Mr. Stephen Hadley (then Deputy National Security Advisor), as requested, and Mr. I. Lewis Libby (then Chief of Staff, Office of the Vice President).

2. (U) **“Did the intelligence analysis produced by Under Secretary Feith’s office differ from the Intelligence Community analysis on the relationship between Iraq and al Qaeda?”**

(U) Yes. The OUSD(P) analysis included some conclusions that differed from that of the Intelligence Community. Although analysts in the Intelligence Community and OUSD(P) agreed that some contacts and possible training may have occurred between Iraq and al-Qaida, the CIA and the DIA disavowed any “mature, symbiotic” cooperation between Iraq and al-Qaida.



b(1)

[REDACTED]

(U) The CIA position on any connection between Iraq and al-Qaida was outlined in reports such as "Iraqi Support to Terrorism" and "Iraq and al-Qaida: Interpreting a Murky Relationship." The draft August 2002 Report, the "Iraqi Support to Terrorism" declared that the CIA "could not document any joint operational activity between Iraq and al-Qaida." In a commentary on the CIA report, OUSD(P) staffers raised many objections, stating that they believed the CIA report downplayed the relationship and did not refer to the key issue of the meeting between Mohammed Atta and al-Ani.

3. (U) "Was the alternative OSD Policy intelligence analysis supported by the underlying intelligence?"

~~(S)~~ Partially. The alternative intelligence analysis that OUSD(P) produced was not fully supported by underlying intelligence. For example, in the memo, "Iraq and al-Qaida: Making the Case," a DIA analyst detailed to OUSD(P) stated "the following information clearly makes the case for an Intelligence Finding—that Iraq has been complicit in supporting al-Qaida terrorist activities." However, an August 2002 JITF-CT memorandum countered the OUSD(P) position addressing the 26 points used to support the Intelligence Finding, the JITF-CT agreed or partially agreed with 11 of the 26. The JITF-CT memorandum went on to state that the entire assessment suffered from a number of methodological flaws that severely undermined its arguments.

(U) Analysts within the Intelligence Community agreed possible ties could exist between Iraq and al-Qaida for training, but without any conclusive reporting, the Intelligence Community did not view the contacts between the two as critical or as important as did the OUSD(P). In contrast, the OUSD(P) believed that the CIA made numerous assertions about a relationship between the two, only to discount them. An intelligence analyst at DIA stated that the papers the OUSD(P) produced lacked the background that normally distinguishes a policy paper from an intelligence paper. He further explained that the CIA and DIA were more analytically skeptical in ascribing links to terrorism, because although there were links between the two [Iraq and al-Qaida] there was no clear relationship. The DIA analyst went on to say that the OUSD(P) stated there were clear links and a clear relationship between Iraq and al-Qaida. Specifically, only the OUSD(P) believed there was a "mature, symbiotic" relationship involving

b(1)

"cooperation in all categories" between Iraq and al-Qaida. This belief was based, in part, on the alleged April 8-9, 2001, meeting in Prague between Mohammed Atta and al-Ani.⁷

4. (U) "Did Under Secretary Feith send CIA ORCON material to the Senate Select Committee on Intelligence in October 2003 without CIA approval to release it, even though such approval is required by Executive Order?"

(U) Yes. However, both the CIA and the OUSD(P) believed that the CIA had approved the ORCON material before sending it to the SSCI in October 2003. The OUSD(P) requested permission from the CIA to release the ORCON material, but lacking a timely response, the OUSD(P) believed that the CIA had granted permission to release the material. Neither the USD(P) nor the then Deputy Director of Central Intelligence were aware that the answers may have been sent to the SSCI before the CIA approval was completed. On November 15, 2003, the Deputy Director of Central Intelligence and the USD(P) approved a DoD statement which confirmed that the OUSD(P) provided the ORCON material to the SSCI with the permission of the Intelligence Community. However, we found no evidence that the CIA approved the release of the ORCON material before the November 15, 2003, statement was released. Although the OUSD(P) did seek the CIA approval, the approval and notification to the OUSD(P) appears to have occurred after the fact.

5. (U) "Did Under Secretary Feith mislead Congress when he sent to several congressional committees in January 2004 revised ORCON materials that were represented as containing CIA's requested changes to the October 2003 documents, but which not fully and accurately reflect CIA's requested changes?"

(U) No. The Under Secretary Feith did not mislead Congress when he sent revised ORCON material to congressional committees in January 2004. The OUSD(P) believed that the CIA had approved the material before sending it to Congress. To satisfy the CIA request for changes and the congressional request for the annex, the USD(P) sent the annex to the committees. The annex was accompanied by a memorandum, drafted by the OUSD(P) staff, outlining the changes the CIA requested. Under Secretary Feith informed the committees that the memorandum reflected the CIA's requested changes. On November 1, 2004,

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the Director of Congressional Affairs, CIA responded to the USD(P) by stating “[a]fter a careful comparison between that submission [to the Senate Committee on Armed Services] and what we had requested as our condition for clearance of CIA material, I believe that you made all of the changes we requested.”

6. (U) “Did the Office of the Under Secretary of Defense for Policy OUSD(P) prepare and present briefing charts concerning the relationship between Iraq and al Qaeda that went beyond available intelligence by asserting that an alleged meeting between lead 9/11 hijacker Mohammed Atta and Iraqi intelligence officer al-Ani in Prague in April 2001 was a ‘known’ contact?”

(U) Yes. The OUSD(P) produced a briefing, “Assessing the Relationship between Iraq and al-Qaida,” in which one slide discussed the alleged meeting in Prague between Mohammed Atta and Iraqi Intelligence officer al-Ani as a “known contact.” The briefing provided to the Deputy National Security Advisor, as requested, and the Chief of Staff of the Office of the Vice President, was similar to those that the OUSD(P) gave the Secretary of Defense and the DCI, except that the OUSD(P) included a slide that had not appeared in previous versions, “Facilitation: Atta Meeting in Prague,” that like the “known contacts” slide, presented the alleged meeting in Prague as fact. The slide did not include Intelligence Community caveats.

(U) In mid-September 2001, the Czech Internal Security Service reported that an alleged meeting between Mohammed Atta and Iraqi intelligence officer al-Ani took place in April 2001; the Czech report was from a single source. Although previous CIA reporting placed Atta in Prague between 1994 and 2000, none confirmed the alleged April 2001 meeting.

(U) By the summer of 2002, the DIA and the CIA both published reports which questioned the Czech report. At the analyst level in OUSD(P), personnel including the drafter of the briefing and one senior advisor to Deputy Secretary of Defense, believed the meeting took place stating that the absence of evidence is not evidence of absence. However, OUSD(P) members could not agree whether the report was valid. Nonetheless, the OUSD(P) briefing to the Deputy National Security Advisor and Chief of Staff of the Office of the Vice President in September 2002 presented the alleged meeting between Mohammed Atta and al-Ani as a ‘known fact.’

7. (U) “Did the staff of the OUSD(P) present a briefing on the Iraq-al Qaeda relationship to the White House (Deputy National Security Adviser Stephen Hadley and Vice President Cheney’s Chief of Staff I. Lewis Libby) in September 2002 unbeknownst to the Director of Central Intelligence, containing information that was different from the briefing presented to the DCI, not vetted by the Intelligence Community, and that was not supported

by the available intelligence (for example, concerning the alleged Atta meeting), without providing the IC notice of the briefing or an opportunity to comment?"

(U) Yes. The OUSD(P) presented three different versions of the same briefing, of which some of the information was supported by available intelligence, to the Secretary of Defense, the DCI, and to the Deputy National Security Advisor and Chief of Staff of the Office of the Vice President. Three specific slides are in question. The differences seem small, but the addition or omission of briefing slides and words can alter the message presented to each audience.

(U) The first slide, "Fundamental Problems with How Intelligence Community is Assessing Information," was included in the briefings to the Secretary of Defense and to the Deputy National Security Advisor and Chief of Staff of the Office of the Vice President. The slide accuses the Intelligence Community of applying a standard requiring juridical evidence for reports, underestimates the importance for both Iraq and al-Qaida to keep their relationship hidden, and assumes the two would not cooperate because of religious differences. This slide "was omitted [from the DCI brief] because it had a critical tone."

(U) The second slide, "Findings," discusses alleged contacts, cooperation, and shared interests between Iraq and al-Qaida; it also contained a statement about coordination between Iraq and al-Qaida on 9/11. All three versions of the briefing contained this slide, but the wording for the bullet discussing cooperation between Iraq and al-Qaida on 9/11 was different on each. The briefing for the Secretary of Defense stated that there was "one indication of Iraqi Coordination with al-Qaida." The briefing for the Deputy National Security Advisor and Chief of Staff of the Office of the Vice President stated that there were "some indications of possible Iraqi coordination with al-Qaida." Interestingly, the brief to the DCI was the most conservative, stating that there was "one possible indication of Iraqi coordination with al-Qaida."

(U) The third slide, "Facilitation: Atta Meeting in Prague," addressed the alleged Mohammad Atta and al-Ani April 2001 meeting in Prague. Neither briefing to the Secretary of Defense or the DCI contained this slide; only the one to the Deputy National Security Advisor and Chief of Staff of the Office of the Vice President contained the slide.

(U) A CIA Senior Intelligence Analyst kept the slides from the August 2002 OUSD(P) briefing to the DCI and compared them with similar slides presented at a SSCI hearing in February 2004. From the comparison, he realized the slides on the relationship between Iraq and al-Qaida were different from those presented to

the DCI in August 2002. He also commented that, at the SSCI hearing, OUSD(P) presented 10 slides that were different from the original 10 presented during the August 2002 meeting.

(S//NF) On August 9, 2002, in a Memorandum, "JITF-CT Commentary: Iraq and al-Qaida, Making the Case," a senior DIA analyst countered, point-by-point, each "known contact" and most of the intelligence judgments reached by OUSD(P) in the OUSD(P) memo, "Iraq and al-Qaida: Making the Case." Two of the OUSD(P) slides that were part of larger briefings to the Secretary of Defense, the DCI, the Deputy National Security Advisor and Chief of Staff of the Office of the Vice President, "Known Contacts," were produced from the OUSD(P) Memorandum. The JITF-CT Intelligence Analyst specifically cited that, "the alleged April 8 or 9, 2001, meeting between al-Ani and Muhammad Atta is impossible to establish with available information." The analyst goes on to say, "the assessment states that there has been no other available intelligence report that contradicts the Czech report – only Western press speculation that the Czech information is wrong. This is incorrect." Czech officials retracted some of their evidence after determining that Muhammad Atta did not enter the country on March 31, 2001; they had confused him with a Pakistani national with a similar name.

(U) Regarding Intelligence Community notice, Mr. Tenet, the DCI, was not notified nor was he required to be informed and attend the OUSD(P) briefing to the Deputy National Security Advisor and Chief of Staff of the Office of the Vice President on September 16, 2002. Mr. Tenet first heard about that OUSD(P) briefing during a SSCI hearing in February 2004.

8. (U) "Did the staff of the OUSD(P) undercut the Intelligence Community (IC) in its briefing to the White House staff with a slide that said there were 'fundamental problems' with the way the IC was assessing information concerning the relationship between Iraq and al-Qaeda, and inaccurately suggesting that the IC was requiring 'juridical evidence to support a finding,' while not providing the IC notice of the briefing or an opportunity to comment."

(U) Yes. We believe that the slide undercuts the Intelligence Community by indicating to the recipient of the briefing that there are "fundamental problems" with the way that the Intelligence Community was assessing information. Evidence of this can be observed by the Vice President's words during an interview in which he describes a memorandum (obtained and published by the Weekly Standard) from the Under Secretary of Defense for Policy to members of the SSCI as "your best source of information." This is in contrast to the SSCI's

evaluation of CIA prewar assessments, as described in their Phase 1 report, which detailed a “methodical approach for assessing possible Iraq/al-Qaida relationship was reasonable and objective.”

(U) The briefing slides that the OUSD(P) presented to the Deputy National Security Advisor and Chief of Staff of the Office of the Vice President on September 16, 2002, were different from those previously presented to the DCI on August 16, 2002. The additional slides included one on “Fundamental Problems with how the Intelligence Community is Assessing Information.” The slide also stated “Application of a standard that it would not normally obtain – IC [Intelligence Community] does not normally require juridical evidence to support a finding.” The OUSD(P) did not coordinate this particular slide with the CIA, DIA, or any of their principal staff before making the presentation to the Deputy National Security Advisor and Chief of Staff of the Office of the Vice President. The OUSD(P) also omitted the slide that depicted ‘fundamental problems’ [with the IC’s analysis] from the version it presented to the DCI, but the slide was included in the version presented to the Deputy National Security Advisor and Chief of Staff of the Office of the Vice President because, according to OUSD(P), the slide, “had a critical tone that we [OUSD(P)] felt would distract from discussion of the substance.”

9. (U) “Did the OSD Policy briefing to the White House draw conclusions (or ‘findings’) that were not supported by the available intelligence, such as the ‘intelligence indicates cooperation in all categories; mature, symbiotic relationship’ [slide 7], or that there were ‘multiple areas of cooperation,’ and shared interest and pursuit of WMD,’ and ‘some indications of possible Iraqi coordination with al-Qaida specifically related to 9/11’ [slide19]?”

~~(SAC)~~ Yes. The briefing to the Deputy National Security Advisor and Chief of Staff of the Office of the Vice President did draw conclusions that were not fully supported by the available intelligence. The briefing contained two slides, “What Would Each Side Want From a Relationship?,” and “Findings.” These two slides claimed “cooperation in all categories,” and listed the relationship between Iraq and al-Qaida as being “mature and symbiotic” with “shared interest and pursuit of WMD [Weapons of Mass Destruction]” and “some indications of possible Iraqi coordination with al-Qaida specifically related to 9/11.’ These claims were not supported by the available intelligence.

~~(SAC)~~ In contrast, the CIA characterized the information about the relationship as contradictory. In a June 2002 assessment of al-Qaida’s ties to Iraq the CIA stated that the pattern of contacts and cooperation between Iraq and al-Qaida over the years found few substantiated contacts between al-Qaida operatives and Iraqi regime officials. In the report, “Iraqi Support for Terrorism,” the CIA also stated, “As in other areas of the Iraq al-Qaida relationship, unresolved questions and knowledge gaps limit our ability to confidently gauge the existence or extent

of cooperation through training and especially through the sharing of CBRN [Chemical, Biological, Radiological, and Nuclear] capabilities."

~~(S//NF)~~ Both the CIA and DIA acknowledged that they had evidence that Iraq and al-Qaida had sporadic contacts during the 1990s, however the CIA assessed the contacts as intermittent and lacking the information that showed the two had a long-term relationship similar to those that Iraq had fostered with other terrorist organizations. The DIA assessment of contacts said that, "Iraq and al-Qaida probably have initiated contact in the past and may communicate through a liaison arrangement, though available reporting is not firm enough to demonstrate an ongoing relationship." Sporadic contacts, however, hardly amount to a "mature," let alone "symbiotic" relationship.

~~(S//NF)~~ The CIA further discusses operational planning and cooperation with Chemical, Biological, Radiological, and Nuclear training in the report, "Iraqi Support to Terrorism." The CIA described reporting on Chemical, Biological, Radiological, and Nuclear training as "episodic, sketchy or not corroborated in other channels," which was far from the "shared interest and pursuit of WMD" that the OUSD(P) assessed. As for operational planning, the CIA stated, "we have uncovered no solid indication of Iraqi complicity in or foreknowledge of the World Trade Center and Pentagon attacks."

(U) Analysts within the Intelligence Community agreed that possible ties could exist between Iraq and al-Qaida for training, but without conclusive reporting, the Intelligence Community believed that most contacts between the two were insignificant. In contrast, the OUSD(P) believed that the CIA affirmed the relationship between the two many times, only to discount them. A Senior Intelligence Analyst at DIA stated that the OUSD(P) papers lacked the background that normally separates a policy paper from an intelligence paper. He further explained that the CIA and DIA were "more analytically skeptical in ascribing links to terrorism, and that there were links between the two [Iraq and al-Qaida] but no clear relationship." The DIA Senior Intelligence Analyst also said that OUSD(P) "stated there were clear links and a clear relationship between Iraq and al-Qaida." Only the OUSD(P) assessed that Iraq and al-Qaida had a "mature, symbiotic relationship, with cooperation in all areas."

10. (U) "Did OUSD(P) staff prepare, and did Under Secretary Feith send to the Secretary of Defense and the Deputy Secretary of Defense, a written critique of a report entitled Iraq and al Qaida: Interpreting a Murky Relationship prepared by the DCI's Counter Terrorism Center (CTC), stating that the 'CIA's interpretation ought to be ignored,' without providing the CIA notice or an opportunity to respond?"

(U) Yes, however, there is no requirement to provide an internal OSD document to the CIA for their review. A DIA detailee prepared a critique of the report,

"Iraq and al-Qaida: Interpreting a Murky Relationship" which was sent to the Secretary of Defense and Deputy Secretary of Defense.

(U) The Principal Deputy of International Security Affairs sent the DIA detailee a copy of the CIA report, "Iraq and al-Qaida: Interpreting a Murky Relationship," requesting an opinion of the document. The detailee's response, "Comments on CIA's "Iraq and al-Qaida: Interpreting a Murky Relationship," contained the sentence, "Therefore, the CIA report should be read for content only – and CIA's interpretation ought to be ignored." The DIA analyst who authored the comment cited a belief that the CIA had initially published, "strong, convincing information on Iraq and al-Qaida ties," but was very cautious in verifying the information. The comments were eventually sent to Under Secretary Feith, who forwarded them to the Secretary of Defense and the Deputy Secretary of Defense.

Appendix H. Key Directives and Terms (U)

(U) **DoD Directive 5105.21.** DoD Directive 5105.21, “Defense Intelligence Agency,” February 18, 1997, details the DIA mission to “satisfy, or ensure the satisfaction of, the military and military-related intelligence requirements of the Secretary and Deputy Secretary of Defense...” The Director, DIA is “the principal advisor on substantive intelligence matters to the Secretary and Deputy Secretary of Defense...” The Executive Order 12333 lists the DIA as a designated Intelligence Activity. DoD Directive 5105.21 defines Intelligence Application, as intelligence activity related to, but separate from, intelligence production, involving the use of all available intelligence information.

(U) **DoD Directive 5111.1.** DoD Directive 5111.1, “Under Secretary of Defense for Policy (USD(P)),” December 8, 1999, designates the USD(P) as the principal staff assistant and advisor to the Deputy and Secretary of Defense for all matters on the formulation of national security and defense policy. The Directive also states that the USD(P) will perform such other functions, as the Secretary of Defense may prescribe.

(U) **DoD Directive 5137.1.** DoD Directive 5137.1, “Assistant Secretary of Defense for Command, Control, Communication and Intelligence,” February 12, 1992 designates the Assistant Secretary, as the principal staff assistant and advisor to the Secretary and Deputy Secretary of Defense for Command, Control, Communication and Intelligence, information management, counter-intelligence, and security countermeasures matters, including warning, reconnaissance, and intelligence and intelligence-related activities conducted by the Department of Defense, to coordinate and exchange information with other OSD officials and the Heads of DoD Components exercising collateral or related functions. This Directive was cancelled on May 2, 2005.

(U) **DoD Directive 5143.01.** DoD Directive 5143.01, “Under Secretary of Defense for Intelligence (USD(I)),” November 23, 2005, established the USD(I) as the Principal Staff Advisor to the Secretary and Deputy Secretary of Defense regarding intelligence, counterintelligence, security, sensitive activities, and other intelligence-related matters.

(U) **DoD Directive 5240.1.** DoD Directive 5240.1, “DoD Intelligence Activities,” April 25, 1988, is the guidance used by DoD intelligence components to collect, retain, or disseminate information. DoD Directive 5240.1 defines Intelligence Activities as “the collection, production, and dissemination of foreign intelligence and counterintelligence by DoD intelligence components authorized under reference (b).” Reference (b) is Executive Order 12333, “United States Intelligence Activities,” December 4, 1981.

(U) **Defense Intelligence Policy.** Defense Intelligence Analytical standards were detailed in DIA DI Policy 004 and 005 from November 2005 through November 2006.

(U) **DI Policy No. 004, July 13, 2001.** This policy outlines the Defense Intelligence Alternative Judgment Policy which details those rare instances where analysts build a strong case, but cannot achieve consensus support for their analysis, an alternative judgment is justified. The Policy further details the actions a Defense intelligence analyst may follow in order to publish an Alternative Judgment.

(U) **DI Policy No. 005, June 5, 2001.** This policy outlines Defense Intelligence's Alternative Analysis Policy. The need to promote sound alternative analysis does not absolve an analyst from the requirement to collaborate. Rather, it frees the analyst from the need to resort to compromise just to reach a conclusion. Analysts are encouraged to resolve analytic differences by presenting alternative analysis within their products, but where consensus cannot be reached.

(U) **Title X, Section 113.** "Subject to the direction of the President and to this title and section 2 of the National Security Act of 1947 (50 U.S.C. 401), the Secretary of Defense has authority, direction, and control over the Department of Defense." The Secretary owns the DoD Directives governing (among others) Intelligence and Policy, and as long as Executive Orders or other legal statutes are not violated, he has the latitude to interchange roles and responsibilities.

(U) **Key Definitions.**

(U) **Intelligence Activities.** The collection, production, and dissemination of foreign intelligence and counterintelligence by DoD intelligence components that are authorized under Executive Order 12333 (DoD Directive 5240.1).

(U) **Intelligence Production.** The validation, correlation, analysis, and interpretation of information on foreign intelligence and counterintelligence (DoD Directive 5105.21).

(U) **Defense Intelligence.** Refers to the integrated DoD intelligence that covers the broad aspects of national policy and national security and that intelligence ... is significant to Defense policy-making and planning and conducting military operations and activities (DoD Directive 5143.01).

(U) **Originator Control: ORCON.** Is a control mechanism to control sensitive information that could prove damaging if divulged. Often ORCON is used where the sensitivity is actually in the linkage of a given set of knowledge to a person, location, or entity.

Appendix I . Summary of Under Secretary of Defense for Policy Comments and Evaluation Responses(U)

(U) On January 16, 2007, the Under Secretary of Defense for Policy submitted more than 50 pages of comments in response to the draft report. (See Management Comments for the complete text of the Under Secretary of Defense for Policy comments.) The following is a summary of the main issues discussed in those comments and the OIG response to those comments.

(U) Issue No. 1 – OIG Opinion on appropriateness of USD(P) activities.

(U) **USD(P) Comments.** The USD(P) stated that, “We recognize that the OIG is competent to determine whether the activities were lawful and authorized. But in the present matter we do not believe the OIG ought to enter the realm of opinion about whether the activities were appropriate in the absence of any applicable standards, regulations or directives on that question.”

(U) **OIG Response.** Inherent in the IG authority and responsibility is to develop opinions, conclusions, judgments, and recommendations based on audits, investigations, inspections, and evaluations. In addition, Congress tasked the OIG to render an opinion. Appendix C, “I request that you immediately initiate an investigation into the activities of the Office of Special Plans during the period prior to the initiation of Operation Iraqi Freedom to determine whether any of these activities were unlawful or improper. The Committee is specifically interested in knowing whether the personnel assigned to the Office of Special Plans, at any time, conducted unauthorized, unlawful or inappropriate intelligence activities.” Appendix D expanded the scope to include any part of OUSD(P) requesting, “I would ask that you determine whether you believe these activities were appropriate and proper. If you determine that any of the activities were either inappropriate or improper, I request that you provide your recommendations for remedial action.”

(U) Issue No. 2 – Work completed by OUSD(P) staffers is not necessarily “OUSD(P)” work.

(U) **USD(P) Comments.** (1) The USD(P) stated, “The work reviewed was not an “OUSD(P)” activity, assessment, view, position or initiative, despite the Draft Report’s repeated assertions to the contrary. The Under Secretary of Defense for Policy [USD(P)] never approved, adopted or advocated the draft briefing or any of the work leading to it as an “OUSD(P)” view or assessment. Each version of the briefing was marked “draft” or “draft working papers” and was never presented as anything other than that.

(2) (U) The USD(P) stated, "The Report fails to make clear that the Office of Special Plans (OSP), the Policy Counter Terrorism Evaluation Group (PCTEG), and the Policy Support Office did not perform and had no responsibility for any of the work reviewed in this Project. This failure is especially egregious in light of press reports and political criticism that continue to assert the contrary. Neither the OSP, the PCTEG, nor the Policy Support Office had any responsibility for the activities reviewed, and none of these units as such performed any of those activities."

(3) (U) The USD(P) stated, "The first activity relevant here was an ad hoc group, [PCTEG] formed by the Under Secretary of Defense for Policy (USDP) shortly after the 9/11 attacks. The mission of that group was to review all available information about a number of international terrorist organizations with a basic focus on the question: What does it mean to be at war with a terrorist network? The Draft Report erroneously states that this group was formed "to conduct an independent analysis of the al-Qaida terrorist network" (page 2). In fact, the group's work was not limited to al-Qaida but addressed more generally various major terrorist groups and their relations with their state sponsors. This group commenced work in approximately October 2001 with two members: a consultant, and a detailee from the Defense Threat Reduction Agency. The group requested and received relevant intelligence information from the Intelligence Community and did preliminary work on the subject assigned. Both members, however, left for other duties towards the end of 2001 and the beginning of 2002. Neither of them ever worked in or took direction from the OSP or the Policy Support Office."

(U) OIG Response. (1) Products produced and disseminated by personnel within the OUSD(P) and disseminated, whether marked draft or otherwise, are OUSD(P) activities. In some cases, the USD(P) personally directed that the work be accomplished. In a USD(P) Fact Sheet on the PCTEG, dated February 3, 2004, in reference to work done by the sole remaining PCTEG member, "Together with other staffers, this individual prepared a briefing for me in August 2002 on links between Iraq and al Qaida. I asked them to give the same brief to the DCI." Work completed by OUSD(P) members assigned to USD(P), based on chain of command, are OUSD(P) activities. See Appendix F for a memorandum from ASD (ISA) regarding "Links between al-Qaida and Iraq," in which the USD(P) asked the Deputy Secretary of Defense in a handwritten note dated January 25, 2002, "DSD, Should we organize a briefing for you to review the underlying intell? Doug Feith" The USD(P) was aware of tasking and is inherently responsible for reviewing products (like the brief) produced in OUSD(P). Additionally, the USD(P) personally attended two versions of the briefing discussed at length in our report (Assessing the Relationship between Iraq and al-Qaida), to the Secretary of Defense and to the DCI.

(2) (U) We acknowledged that OSP has become generic terminology for the activities of the OUSD(P), including the PCTEG and Policy Support Office. The actual OSP had no responsibility for and did not perform any of the activities examined in this review. The collaborative team that worked on the briefing discussed in our report, "Assessing the Relationship between Iraq and al-Qaida," consisted of one member of the PCTEG, one member of the Policy Support Office, and a former member of OUSD(P) member who was working as the Special Assistant to the Deputy Secretary of Defense. Regardless of whether the collaborative activity was sanctioned by the PCTEG or Policy Support Office, or both, the briefing is generically described as work done collaboratively by OUSD(P) and the Special Assistant to the Deputy Secretary of Defense.

(3) ~~(S//NF)~~ According to an ASD(ISA) Action Memo dated November 26, 2001, for the Deputy Secretary of Defense detailing the creation of the PCTEG, the purpose of the PCTEG was to "Obtain approval of creation of a Team B, called the Policy Counter Terror Evaluation Group (PCTEG). Through independent analysis and evaluation, the PCTEG would determine what is known about Al-Qaida's worldwide terror network, its suppliers and relationship to states and other international terrorist organizations..." The Action Memo includes a handwritten note dated November 25, 2001, "Bob Andrews, Should this say something specifically about linking up w/Treasury Dept? By the way, what is happening w/DoD-Treasury link? DJF" [Doug J. Feith]. Additionally, in a Memorandum for Director, Defense Intelligence Agency of February 2, 2002, Subject: Request for Support, the USD(P) writes, "We are establishing an ad hoc Policy Counter Terrorism Evaluation Group (PCTEG) to take an independent look at Al-Qaida's worldwide organization and linkages." In addition, the USD(P) comments on the draft report states that, "the memo approving creation of the PCTEG described its task as follows: study al-Qaida's worldwide organization including its suppliers, its relations with States and other terrorist organizations (and their suppliers)." This is an admission by the USD(P) that the PCTEG was formed to study al-Qaida.

(U) Issue No. 3 – OUSD(P) work cannot be considered "Intelligence Activities."

(U) USD(P) Comments. (1) The USD(P) stated, "The entire argument in the Draft Report rests on the definition of "Intelligence Activities" and the meaning of "intelligence assessments." The Report's interpretation of the definition of "Intelligence Activities" found in the relevant DoD directive is wrong. By its definition, that term on its face applies only to intelligence agencies, not to policy offices.

(2) (U) The Draft Report labels the work product at issue as "inappropriate" (page 4) because they allegedly "did not clearly show the variance with the consensus of the Intelligence Community" and "were, in some cases, shown as

intelligence products.” But the senior decision-makers briefed on this work. . . .did not need to be told that it varied in some respects from Intelligence Community analysis; that was inescapably obvious. There are no facts supporting the claim that some work products were, in some cases, shown as intelligence products.”

(U) **OIG Response.** (1) In effect the USD(P) is stating that the OUSD(P) is not a defined Intelligence Activity and therefore cannot, by definition, perform Intelligence Activities or intelligence assessments. This is the basis of our finding; a non-Intelligence Activity, OUSD(P), was inappropriately performing Intelligence Activities of production and dissemination that should be performed by the Intelligence Community.

(2) ~~(S//NF)~~ The Intelligence Community coordinates its products within the Intelligence Community to provide senior decision makers with the consensus of the community on an issue or a “finding.” The OUSD(P) did not effectively inform decision makers on the variance of its conclusions with those of the substantive experts within the Intelligence Community; information that we believe is of value to the decision maker. Specifically, OUSD(P) did not take the appropriate action to inform the decision makers of the consensus opinion of the Intelligence Community and those portions reflecting their alternative assessment. Intelligence Community professionals judged the products produced by the OUSD(P) to be intelligence products. The use of terminology such as making “the case for an Intelligence Finding—that Iraq has been complicit in supporting al-Qaida terrorist activities,” “Intelligence indicates,” “Findings,” and “Known Contacts” reinforces that judgment.

(U) **Issue No. 4 – OUSD(P) work did not necessarily influence senior decision makers.**

(U) **USD(P) Comments.** The USD(P) stated, “There are likewise no facts suggesting that the “senior decision-makers” who were briefed on this work, specifically, the Secretary of Defense, the Deputy Secretary of Defense, the DCI, the Deputy National Security Advisor, and the Vice President’s Chief of Staff, mistook this work to be “intelligence assessments.”

~~(S//NF)~~ **OIG Response.** Decision makers gather facts and make decisions on cumulative information, whether presented or perceived as “intelligence assessments.” The “Report of an Inquiry into the Alternative Analysis of the Issue of an Iraq-al Qaeda Relationship,” October 21, 2004, provides insight into whether the OUSD(P) products influenced senior decision makers. As quoted on page 5-6 of the Minority Staff Report:

(U) Although Administration officials cited classified intelligence in support of their statements about the Iraq-al Qaeda relationship, their statements did not accurately reflect the intelligence assessment provided in classified reports to the Executive Branch and Congress by

the IC [Intelligence Community]. Administration officials were apparently using intelligence analyses that originated outside of the IC. Those intelligence analyses claiming a close relationship were produced by the Office of Under Secretary of Defense for Policy Douglas Feith, and presented to high level Administration officials. Vice President Cheney specifically stated that the Feith analysis was the "best source of information."

(U) Issue No. 5 – OUSD(P) work did not undercut the Intelligence Community; it was supported by the DCI himself and the Czech Intelligence Service

(U) USD(P) Comments. The USD(P) stated: (1) "OUSD(P) did not impede or undercut any responsibilities of the Intelligence Community, contrary to suggestions in the Draft Report. The IC was fully aware of the work under review and commented on it several times, as the Draft Report itself reveals. Further, the DCI was personally briefed on the work at the Secretary of Defense's direction."

(2) ~~(S//NF)~~ [REDACTED]

(3) ~~(S//NF)~~ The USD(P) stated, "Whether or not it was an overstatement to describe the reported Atta meeting as a "known contact," the fact is that at the time of this briefing the Czech intelligence service stood firmly by its report [REDACTED]" In contrast, the CIA report cited at page 7 of the Draft Report describes the reporting on the alleged meeting as "...contradictory, and we have not verified Atta's travel through other channels." The DIA report, also cited at page 8, states that the Atta meeting is "impossible to prove or disprove with available information." But at no time relevant to this Project did the US Intelligence Community articulate and disseminate any conclusive coordinated judgment that the reported Atta meeting did not occur."

(4) ~~(S//NF)~~ [REDACTED]

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(U) **OIG Response.** (1) As stated in our report, portions of the Intelligence Community were aware of work such as the July 25, 2002, memo; but the DCI was not. We agree that the DCI was briefed at the direction of the Secretary of Defense; however, the exclusion of the "Fundamental Problems with how the Intelligence Community is Assessing Information" slide to the DCI and inclusion of the slide to the Secretary of Defense and the Deputy National Security Advisor and Chief of Staff of the Office of the Vice President clearly did not bolster support for the Intelligence Community.

(2) ~~(S//NF)~~ The statements were made after the September 16, 2002, briefing to the Deputy National Security Advisor and Chief of Staff of the Office of the Vice President. Further, the DCI's own statement in his unclassified letter to Senator Graham on October 7, 2002, included "our understanding of the relationship between Iraq and al-Qaida is evolving and is based on sources of varying reliability." Evidence of senior level contacts between Iraq and al-Qaida and training in the areas of poisons and gases and making conventional bombs does not constitute a "mature symbiotic relationship" in all areas."

(3) ~~(S//NF)~~ At the time the "Czech intelligence service stood firmly by its report," the U.S. Intelligence Community was casting significant doubt on the validity of the report. The cited CIA report describes the reporting on the alleged meeting as "..contradictory, and we have not verified Atta's travel through other channels." The cited DIA report states that the Atta meeting is "impossible to prove or disprove with available information." While the Intelligence Community could not corroborate that the meeting occurred, at the same time, the briefing produced by the collaborative efforts of the two OUSD(P) personnel and the Special Assistant to the Deputy Secretary of Defense noted the meeting on the slide as "Known Contacts" on all three versions of the brief. Additionally, the SSCI report noted that "Although the CIA has not ruled out the meeting, its analysis characterized the meeting as highly unlikely."

(4) ~~(S//NF)~~ The slide, "What Would Each Side Want From a Relationship?" clearly concludes; "Intelligence indicates cooperation in all categories; mature, symbiotic relationship." Further, we did not state in our draft report that there was cooperation in the conduct of specific terrorist operations.

(U) **Issue No. 6 – OUSD(P) work did not include all phases of intelligence cycle.**

(U) **USD(P) Comments.** The USD(P) stated, "As the guidance cited by the Draft Report (page 4-5, Appendix H) and other relevant authorities make clear, "Intelligence Activities" involve the entire process by which intelligence agencies turn information into a product that intelligence consumers can use. "Intelligence Activities" and related terms make clear, such activities consist of the entire process of actions and operations conducted by intelligence agencies to produce an

intelligence product for consumers. It is incorrect to select one or a few activities that are part of the "intelligence process" and characterize those selected activities as "Intelligence Activities" even when conducted by non-IC policy elements of government."

(U) **OIG Response.** The USD(P) comments misinterpret the definition. The "and" in the list that is the intelligence process does not mean all elements must exist to constitute intelligence activities. The National Security Agency, for example, collects and exploits, but does not conduct all-source-fusion-analysis and yet their work is characterized as "intelligence."

Appendix J. Report Distribution (U)

(U) Office of the Secretary of Defense

Secretary of Defense
Deputy Secretary of Defense
Under Secretary of Defense for Intelligence
Under Secretary of Defense for Policy
General Counsel

(U) Other Defense Organizations

Director, Defense Intelligence Agency
Inspector General, Defense Intelligence Agency
Director, Joint Intelligence Task Force - Combating Terrorism

(U) Office of the Director of National Intelligence

Director of National Intelligence
Inspector General, Office of the Director of National Intelligence

(U) Central Intelligence Agency

Director, Central Intelligence Agency
Inspector General, Central Intelligence Agency

(U) Congressional Committees and Subcommittees, Chairman and Ranking Minority Member

Senate Committee on Appropriations
Senate Subcommittee on Defense, Committee on Appropriations
Senate Committee on Armed Services
Senate Committee on Homeland Security and Governmental Affairs
Senate Select Committee on Intelligence
House Committee on Appropriations
House Subcommittee on Defense, Committee on Appropriations
House Committee on Armed Services

House Committee on Oversight and Government Reform
House Subcommittee on Government Management, Organization, and Procurement,
Committee on Oversight and Government Reform
House Subcommittee on National Security and Foreign Affairs,
Committee on Oversight and Government Reform
House Permanent Select Committee on Intelligence

Under Secretary of Defense for Policy (U)



~~SECRET//NOFORN~~ WITH ATTACHMENT
UNCLASSIFIED WITHOUT ATTACHMENT
THE UNDER SECRETARY OF DEFENSE
2000 DEFENSE PENTAGON
WASHINGTON, DC 20301-2000

January 16, 2007

MEMORANDUM FOR DEPUTY INSPECTOR GENERAL FOR INTELLIGENCE

FROM: Eric S. Edelman, Under Secretary of Defense for Policy *E.S.E.*

SUBJECT: Review of Pre-Iraqi War Activities of OUSD(P)
(Project No. D2006DINT01-0077.000) (U)

(U) Your office provided us a Draft dated December 20, 2006 of a Proposed Report (the "Draft Report") on the above project and requested comments.

(U) Attached are our comments, which I have approved and signed. The comments detail significant factual inaccuracies and analytical errors in the Draft Report. We have serious concerns with unsubstantiated findings and recommendations in the Draft Report, as explained in our comments.

(U) We recognize that the OIG is competent to determine whether the activities were lawful and authorized. But in the present matter we do not believe the OIG ought to enter the realm of opinion about whether the activities were appropriate in the absence of any applicable standards, regulations or directives on that question.

(U) As explained in our comments, we do not concur in specified findings or in the recommendations of the Draft Report.

(U) As requested, we have conducted a security review of the Draft Report as well as a declassification review of the information presented. The results of that review and our recommendations regarding declassification are separately attached to this memo. In addition, in respect to both the Draft Report and our comments on it, I have declassified all previously classified information for which my office was the Original Classification Authority.

(U) Thank you for giving us the opportunity to comment on the Draft Report.

Attachments: Comments on Draft Report (Tab A)
Security and Declassification Review (Tab B)

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UNCLASSIFIED WITHOUT ATTACHMENT



Under Secretary of Defense for Policy (U)

TAB A

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**COMMENTS BY
THE OFFICE OF THE UNDER SECRETARY OF DEFENSE
ON A
DRAFT OF A PROPOSED REPORT
BY THE DOD OFFICE OF INSPECTOR GENERAL**

PROJECT NO. D2006DINT01-0077.000

**REVIEW OF PRE-IRAQI WAR ACTIVITIES
OF THE OFFICE OF
THE UNDER SECRETARY OF DEFENSE FOR POLICY (U)**

January 16, 2007

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OUSD(P) COMMENTS ON
DRAFT OF A PROPOSED REPORT
BY THE DOD OFFICE OF INSPECTOR GENERAL

REVIEW OF PRE-IRAQI WAR ACTIVITIES OF THE OFFICE OF THE
UNDER SECRETARY OF DEFENSE FOR POLICY (U)
PROJECT NO. D2006DINT01-0077.000

January 16, 2007

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**OUSD(P) COMMENTS ON
DRAFT OF A PROPOSED REPORT
BY THE DOD OFFICE OF INSPECTOR GENERAL**

**REVIEW OF PRE-IRAQI WAR ACTIVITIES OF THE OFFICE OF THE
UNDER SECRETARY OF DEFENSE FOR POLICY (U)**

PROJECT NO. D2006DINT01-0077.000

January 16, 2007

The Committee believes that IC analysts should expect difficult and repeated questions regarding threat information. ...The Committee found that this process – the policymakers probing questions – actually improved the [CIA's] products. ...While analysts cannot dismiss a threat because at first glance it seems unreasonable or it cannot be corroborated by other credible reporting, policymakers have the ultimate responsibility for making decisions based on this same fragmentary, inconclusive reporting.¹

(U) The Office of the Under Secretary of Defense for Policy (OUSD(P)) offers the following comments on a December 20, 2006 Draft of a Proposed Report (the "Draft Report") by the Department of Defense Office of Inspector General ("OIG") in Project No. D2006DINT01-0077.000, "Review of Pre-Iraqi War Activities of the Office of the Under Secretary of Defense for Policy (U)" (the "Project").

(U) Throughout these comments we observe that the work on which this Project concentrates, and in particular the specific activities that the Draft Report characterizes as "inappropriate," were authorized and directed to be done by the Deputy Secretary or the Secretary of Defense. For the purpose of these comments, references to "work" or "activities" "authorized" and "directed" by the Secretary, the Deputy Secretary, "the most senior leaders" of DoD, or "senior DoD leaders" specifically mean the following:

(U) The Deputy Secretary of Defense ("Deputy" or "DSD") directed his Special Assistant in his front office and two staff members in OUSD(P) to take a fresh, critical look at Intelligence Community ("IC") reporting on contacts between Iraq and al-Qaida. In working on the Deputy's tasking, one of the OUSD(P) staffers prepared an internal memo containing two commentary paragraphs followed by a list summarizing IC reports on contacts between Iraq and al-Qaida. The staffers wrote up the critique requested by DSD in the form of a draft briefing that discussed IC reports on Iraq-al-Qaida contacts and how these reported contacts might be viewed absent an *a priori* assumption that secular Baathists and Islamic extremists would never cooperate. The Deputy Secretary

¹ (U) *Report of the Select Committee on Intelligence on the U.S. Intelligence Community's Prewar Intelligence Assessments on Iraq (U)* (9 July 2004), pp. 34, 35 (unanimous report, unclassified version) ("SSCI Report").

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directed that the draft briefing be given to the Secretary of Defense. After receiving it, the Secretary directed that it be shared with the DCI. The Deputy Secretary's office also directed that the draft briefing be given to the Deputy National Security Advisor when the latter requested it.

I. SUMMARY OF KEY ERRORS IN THE DRAFT REPORT (U)

- (U) The title of the Draft Report is inaccurate. The work on which the Draft Report focuses was not "OUSD(P)" activity. It was in fact a response to tasking by the Deputy Secretary of Defense, who in July 2002 directed his Special Assistant in his front office and two staff members in OUSD(P) to critique IC reporting on contacts between Iraq and al-Qaida. The result was a draft briefing on how those contacts might be viewed if one did not assume *a priori* that secular Baathists and Islamic extremists would never cooperate. The Deputy Secretary directed that the draft briefing be given the Secretary of Defense. After receiving it, the Secretary directed that it be shared with the DCI. When the Deputy National Security Advisor requested the draft briefing, the Deputy Secretary's office directed that it be given to him.
- (U) The work reviewed was not an "OUSD(P)" activity, assessment, view, position or initiative, despite the Draft Report's repeated assertions to the contrary. The Under Secretary of Defense for Policy (USDP) never approved, adopted or advocated the draft briefing or any of the work leading to it as an "OUSD(P)" view or assessment. Each version of the briefing was marked "draft" or "draft working papers" and was never presented as anything other than that.
- (U) The Draft Report correctly finds that these activities were lawful and authorized. It correctly states (page 34) that "the Secretary [of Defense] owns the DoD Directives governing (among others) Intelligence and Policy, and as long as Executive Orders or other legal statutes are not violated, he has the latitude to interchange roles and responsibilities." But in contradiction of these same findings, the Draft Report incorrectly calls the activities "inappropriate," because they supposedly amounted to "dissemination" to senior decision-makers of "alternative intelligence assessments" "inconsistent" with the "consensus" of the IC.
- (U) If the OIG believes that it was inappropriate for the Deputy Secretary of Defense to have non-IC OSD staff members critique IC work on a significant subject of national security, inappropriate for the Secretary of Defense to share the OSD work with the DCI, and inappropriate for the Deputy Secretary to share the work with the Deputy National Security Advisor when requested by the latter, the OIG should say so directly instead of finding fault with subordinate OSD offices and staff members who did as the Secretary or Deputy Secretary instructed.

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- (U) The entire argument in the Draft Report rests on the definition of "Intelligence Activities" and the meaning of "intelligence assessments." The Report's interpretation of the definition of "Intelligence Activities" found in the relevant DoD directive is wrong. By its definition, that term on its face applies only to intelligence agencies, not to policy offices.
- (U) Because OUSD(P) routinely and properly acquires, assesses and distributes "information relating to the capabilities, intentions, and activities of foreign powers,"² stretching the definition of "Intelligence Activities" to include policy offices would lead to the absurd result of mischaracterizing most work done in OUSD(P) as "Intelligence Activities."
- (U) The Report does not define the term "intelligence assessments" but erroneously asserts that a critique by non-IC staffers of IC assessments was itself an "inappropriate" "intelligence assessment." There are no facts in the Draft Report, or otherwise, supporting the assertion that this work was presented as "intelligence assessments."
- (U) There are likewise no facts suggesting that the "senior decision-makers" who were briefed on this work, specifically, the Secretary of Defense, the Deputy Secretary of Defense, the DCI, the Deputy National Security Advisor, and the Vice President's Chief of Staff, mistook this work to be "intelligence assessments."
- (U) The Report fails to make clear that the Office of Special Plans (OSP), the Policy Counter Terrorism Evaluation Group (PCTEG), and the Policy Support Office did not perform and had no responsibility for any of the work reviewed in this Project. This failure is especially egregious in light of press reports and political criticism that continue to assert the contrary.
- (U) The Draft Report labels the work products at issue as "inappropriate" (page 4) because they allegedly "did not clearly show the variance with the consensus of the Intelligence Community" and "were, in some cases, shown as intelligence products." But the senior decision-makers briefed on this work (one of whom was the DCI himself) did not need to be told that it varied in some respects from IC analysis; that was inescapably obvious. There are no facts to suggest that any of them drew any conclusions or made any decisions whatsoever solely on the basis of the draft briefing, without taking IC views into account. There are no facts supporting the claim that some work products "were, in some cases, shown as intelligence products."

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² (U) Part of the definition of "foreign intelligence," which in turn is part of the definition of "Intelligence Activities." See DoD Directive No. 5240.1, DoD Intelligence Activities," 25 April 1988, Sections 3.1 and 3.2.

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Reference

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- (U) OUSD(P) did not impede or undercut any responsibilities of the Intelligence Community, contrary to suggestions in the Draft Report. The IC was fully aware of the work under review and commented on it several times, as the Draft Report itself reveals. Further, the DCI was personally briefed on the work at the Secretary of Defense's direction.
- (U) OUSD(P) did not bypass any applicable DIA procedures, contrary to assertions in the Draft Report. The DIA's DI Policy Nos. 004 and 005, cited by the Draft Report, are internal DIA guidelines that only apply to DIA analysts, working as such, who wish to produce alternative analyses or alternative judgments within DIA's chain of command. These guidelines are irrelevant to customer offices of the IC – the consumers of intelligence -- that wish to suggest an alternative way of viewing information and analyses already provided by the IC. Nor do these guidelines provide any mechanism for DIA customers to request an alternative judgment by the IC, which in any case is manifestly not what the Deputy Secretary desired when he directed the work under review to be done.
- (U) While some of the work reviewed in this Project did characterize the Iraq-al-Qaida relationship as "cooperative," that characterization did not contradict IC judgments on the subject at the time. To the contrary, the reference in the draft briefing to a "cooperative" Iraq-al-Qaida relationship was consistent with the DCI's own statements to Congress in 2002 and 2003. He said then that "we have solid reporting of senior level contacts between Iraq and al-Qaida going back a decade," "credible information indicates that Iraq and al-Qaida have discussed safe haven and reciprocal non-aggression," "we have solid evidence of the presence in Iraq of al-Qaida members," "the reporting also stated that Iraq has provided training to al-Qaida members in the areas of poisons and gases and making conventional bombs," etc. The Draft Report ignores these DCI statements.
- (U) The Draft Report erroneously faults OUSD(P) for failing to provide "the most accurate analysis of intelligence" to senior decision-makers.³ That responsibility rests with the IC, not OUSD(P). More importantly, senior decision-makers already had the IC's reports and assessments on Iraq and al-Qaida and thus already had "the most accurate analysis of intelligence" -- if one accepts, as the Draft Report seems to do, that the IC's assessments are the "most accurate."⁴

³ (U) This criticism is symptomatic of the peculiar and sometimes contradictory logic of the Draft Report, for the Draft Report also holds that OUSD(P) should not provide any intelligence analyses at all.

⁴ (U) The Draft Report purports to make judgments about the nature of the Iraq-al-Qaida relationship, but these judgments appear to be based on certain CIA and DIA analytical papers -- not on any contemporaneous NIE or other authoritative consensus by the IC as a whole -- and without reference to the DCI's own statements on the subject. There is no evidence in the Draft Report that the OIG

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- (U) The Draft Report recommends (page 14) that, if OUSD(P) disagrees with an IC consensus, OUSD(P) should "clearly articulate in policy products the Intelligence Community consensus and the basis for disagreement or variance from the Intelligence Community consensus." Such a requirement would inappropriately constrain policy work by requiring policy offices to vet every policy recommendation or analysis with the IC in order to determine whether or not it disagreed or varied with an IC "consensus." It would also burden policy offices with a requirement to articulate the IC "consensus" when the IC itself should do so.
- (U) Bipartisan reports and studies by various commissions and congressional committees since the 9/11 attacks have stressed the need for vigorous debate, hard questions and alternative thinking of the sort that motivated the work reviewed in this Project. The conclusions and recommendation in the Draft Report reflect a disturbing departure from the lessons of all these reports and studies. By faulting a critical assessment in OSD of IC work on contacts between Iraq and al-Qaida, the Draft Report would inhibit the vigorous debate and hard questioning that most observers recognize as essential. The Draft Report's conclusions, if sustained, would have a dampening effect on future initiatives challenging intelligence assessments. The facts do not justify such conclusions.

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II. THE POLITICAL BACKGROUND OF THIS MATTER (U)

(U) The activities reviewed in this Project, unfortunately, have been the object of bitter political debate and inaccurate press reporting for over three years. Given the partisan nature of the matter, it was particularly important that the OIG's independent review adhere to the strictest standards of factual accuracy, rigorous analysis, and clarity of expression. Unfortunately, the Draft Report does not meet those standards.

(U) Apart from numerous factual inaccuracies, omissions and mischaracterizations identified throughout these comments, the Draft Report suffers from a basic analytical flaw in attempting to paint the work under review as "inappropriate" even though no laws were broken, no DoD directives were violated, and no applicable policies were disregarded. The Draft Report concedes that the activities reviewed were lawful. It concedes that the activities were authorized – indeed requested – by the Deputy Secretary and Secretary of Defense. In perhaps its most trenchant observation, the Draft Report correctly states (page 34) that "*the Secretary owns the DoD Directives governing (among others) Intelligence and Policy, and as long as Executive Orders or other legal statutes are not violated, he has the latitude to interchange roles and responsibilities*" (emphasis added).

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undertook any rigorous, independent review of the underlying intelligence on the issue of contacts between Iraq and al-Qaida.

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(U) That observation goes to the heart of the present matter. It shows that the activities in question were clearly appropriate. No statutes or executive orders were violated. The Secretary, and by extension the Deputy, unequivocally had the latitude to obtain an alternative, critical assessment of IC work on Iraq and al-Qaida from non-IC OSD staff members rather than from the DIA or the Assistant Secretary of Defense for C3I, without vetting such critique through any Intelligence Community process. The Secretary had the latitude to direct the authors of such critique to share it with the DCI. The Deputy Secretary had the latitude to direct the authors of such critique to share it with the Vice President's Chief of Staff and the Deputy National Security Advisor when the latter so requested. This should have put an end to any question of appropriateness.

(U) The OIG is empowered and competent to determine whether the activities were lawful and authorized. But we question whether it is "appropriate" for the OIG to venture into the realm of opinion about whether the activities were appropriate, in the absence of any applicable standards, regulations, directives, etc. This is especially true where, as here, the OIG has found the activities in question were lawful and authorized, and has conceded that the Secretary and Deputy have the "latitude to interchange roles and responsibilities" in overseeing DoD.

(U) We respectfully observe that the OIG's opinion on the subjective question of "appropriateness" in these circumstances is not entitled to any particular deference. The OIG does not have special expertise on this issue, which is fraught with policy and political dimensions. Given the politically charged atmosphere infecting this entire matter, it is especially objectionable for the OIG to obscure and minimize the fact that the Secretary and Deputy Secretary directed the activities in question be done, to mischaracterize the work as "OUSD(P)" activities, and to find something "inappropriate" in the fact that subordinate offices and staffers did as the Secretary and Deputy directed.

(U) Moreover, the Draft Report employs a demonstrably incorrect reading of "Intelligence Activities" to portray the work reviewed as "alternative intelligence assessments," "Intelligence Production" and the like, when in fact it was not. This mischaracterization is particularly egregious in light of the persistently false press reports and political accusations claiming that the Deputy Secretary, or OUSD(P), or others in the Defense Department distorted intelligence in order to argue that Iraq had a direct role in the 9/11 attacks, or that Iraq and al-Qaida had a stronger relationship than shown by facts known at the time, in order to propel the United States to war on false pretenses.

(U) Before the OIG ever took up this matter, it had been the subject of an exhaustive investigation that the Senate Select Committee on Intelligence (SSCI) began in July 2003, as well as a "minority inquiry" begun by Senator Carl Levin in June 2003.

(U) In July 2004, the Committee issued a unanimous report on "Phase I" of its investigation. That report concluded *inter alia* that policymakers at no time pressured the

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IC to change its conclusions on Iraq's links to terrorism, and that the work of OSD staffers reviewed here did not result in any changes to the analytical judgments in IC work on Iraqi support for terrorism.⁵ The Committee deferred to a second phase of its investigation an evaluation of whether the work products now under OIG review were "objective, reasonable, and accurate."⁶ Because of divisions along partisan lines within the SSCI, its members have not to date been able to agree on what conclusions to reach in its "Phase II" report.

(U) SSCI Chairman Pat Roberts referred this matter to OIG only because these partisan divisions prevented the SSCI from reaching agreement on what to say about the activities reviewed in this Project. By the time he made the referral to OIG, the issue had been transformed from whether the work in question was "objective, reasonable and accurate" to whether it was "unauthorized, unlawful or inappropriate" -- even though the SSCI had uncovered no information to support such a characterization.

(U) In his September 9, 2005 letter requesting an independent review by OIG, Chairman Roberts wrote that "the Committee is concerned about persistent and, to date, unsubstantiated allegations that there was something unlawful or improper about the activities of the Office of Special Plans within the office of the Under Secretary of Defense for Policy during the period prior to the initiation of Operation Iraqi Freedom." He added that he had "not discovered any credible evidence of unlawful or improper activity, yet the allegations persist." He nevertheless asked the OIG to review "whether the personnel assigned to the Office of Special Plans, at any time, conducted unauthorized, unlawful or inappropriate intelligence activities."

(U) On September 22, 2005, Senator Carl Levin wrote in his capacity as Ranking Member of the Senate Armed Services Committee (SASC), asking the OIG to expand the scope of the review requested by Chairman Roberts. Specifically, Senator Levin requested that "you include all elements of the Office of the Under Secretary of Defense for Policy, including the Policy Counter Terrorism Evaluation Group (PCTEG) and the Policy Support office." He posed a number of questions for the OIG to answer.⁷

(U) In fact Senator Levin had already published his own conclusions on this matter nearly a year before the OIG took up its review. See "Report of an Inquiry Into the Alternative Analysis of the Issue of an Iraq-al Qaeda Relationship" (October 21, 2004), containing numerous incorrect allegations of improper conduct within OUSD(P).

⁵ (U) SSCI Report, p. 363.

⁶ (U) SSCI Report, p. 312.

⁷ (U) At Appendix B attached to these comments, we address in detail the Draft Report's answers to Senator Levin's questions.

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That report was part of the "minority inquiry" that Senator Levin has been pursuing into the subject matter of this Project since June 2003, without the endorsement of the SASC, the SSCI, or any other congressional committee as of early January 2007. The Draft Report (page 1) comments that Senator Levin's report "challenged some of the conclusions" in the SSCI's report of July 2004 but fails to note that Senator Levin himself, as a SSCI member, concurred in that same SSCI report and that the SSCI report was unanimous.

(U) It bears emphasis that the same set of facts and documents have been available to the SSCI and to Senator Levin throughout this process.

(U) More recently, on December 8, 2006, Representative Cynthia McKinney introduced articles of impeachment against the President of the United States, the first article of which makes the false assertion that the President and the Secretary of Defense created the OSP "to override existing intelligence reports by providing unreliable evidence that supported the claim that Iraq's alleged weapons of mass destruction posed an imminent threat to the United States of America."⁸

(U) Meanwhile, uninformed and inaccurate press reports have persisted, generally on the theme that the Office of Special Plans allegedly conducted a rogue intelligence operation before the Iraq war and fed incorrect or exaggerated intelligence information to senior policy makers in the Executive Branch, bypassing the Intelligence Community and contributing to an ill-informed decision to go to war in Iraq. These stories have been repeated so many times that they are now taken as established truth by some members of Congress and many commentators.

(U) Indeed, even the Draft Report to some extent seems to fall prey to the hypnotic effect of these constantly repeated falsehoods. Instead of setting the record straight clearly and directly, the Draft Report relegates to a footnote (at page ii, repeated at page 1) the peculiar comment that:

"The term Office of Special Plans has become generic terminology for the activities of the OUSD(P), including the Policy Counter Terrorism Evaluation Group and Policy Support Office. The actual Office of Special Plans had no responsibility for and did not perform any of the activities examined in this review."

(U) As the facts detailed below demonstrate, neither the OSP, the PCTEG, nor the Policy Support Office had any responsibility for the activities reviewed, and none of these units as such performed any of those activities. The Draft Report should say so forthrightly.

⁸ (U) H. Res. 1106, 109th Cong., 2nd Sess. (8 December 2006).

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(U) The Draft Report should also say prominently and forthrightly that the most senior leaders of DoD directed these activities to be done by non-IC OSD staff members, not all of whom were even assigned to OUSD(P), rather than repeatedly mischaracterizing these actions as "OUSD(P)" activities.

(U) These and other deficiencies of the Draft Report, discussed in these comments, demonstrate that the OIG should reconsider its excursion into the policy and political issue of whether the lawful and authorized activities under review were "appropriate."

III. OUSD(P) SUPPORT TO THE OIG REVIEW (U)

(U) To assist the OIG in its review, this office provided copies of the thousands of pages of documents that we had already provided to the SSCI and to Senator Levin. We also provided various additional materials that the OIG requested. In addition, we arranged for the OIG to review certain documents that DoD had earlier declined to provide the Congress. We offered OIG the opportunity to review some ten file boxes containing all the documents we had collected in the course of our initial search in response to the SSCI's and Senator Levin's document requests, including documents that on review we had determined to be unresponsive and thus did not provide to Congress. We also provided all witnesses that we were in a position to produce for interviews requested by the OIG and suggested various additional individuals as possible witnesses.

IV. FACTS (U)

(U) Because of the need for a clear, complete and accurate account of the relevant facts, we provide a detailed statement of facts below. Throughout the factual narrative, we undertake to highlight the more significant factual errors in the Draft Report.

(U) A discussion section, examining the authorities and analysis set out in the Draft Report, follows the statement of facts.

(U) The Draft Report does not explain the origin or context of the work under review. By persistently mischaracterizing this work as "OUSD(P)" activities, the Draft Report conveys an incorrect impression that this work was an "OUSD(P)" initiative constituting an "inappropriate" intrusion into "intelligence functions that are the responsibility of Defense Intelligence" (page 14). The Draft Report mentions that "some of the actions were performed in response to inquiries from the Deputy Secretary of Defense and direction from the Secretary of Defense" (page 13), leaving the incorrect impression that such actions were somehow incidental to other (unspecified) actions attributable solely to the "OUSD(P)."

(U) In fact, all (not some) of the work characterized by the Draft Report as "inappropriate," specifically, three versions of a draft briefing on links between Iraq and

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al-Qaida and an internal staff memo done in preparation for the briefing, was in response to requests and taskings by either the Deputy Secretary or the Secretary of Defense. The Deputy Secretary directed that the draft briefing be prepared for the Secretary. After the Secretary received the draft briefing, he directed that it be shared with the DCI. When the Deputy National Security Advisor requested the draft briefing, the Deputy Secretary's office directed that it be given to him. Three OSD staff members had the primary responsibility to do this work. Two happened to be DIA analysts detailed to OUSD(P) and the third worked directly for the Deputy Secretary as his Special Assistant.

(U) How and why these particular three individuals became involved in this work were as follows:

A. Three Separate Activities Relating to the Work Under Review (U)

(U) There were three, initially separate, activities within the Office of the Secretary of Defense (OSD) that relate to the work under review in this Project. Some of the individuals involved in these three activities, and some strands of their work, eventually came together under the direction and oversight of the Deputy Secretary of Defense (DSD), who tasked certain work discussed below. That work, and certain resulting draft documents (critiquing IC work on the Iraq-al-Qaida relationship), are the actions that the Draft Report mischaracterizes as "alternative intelligence assessments" and "Intelligence Activities."

(U) In its "Background" section the Draft Report discusses the OSP (page 3) but fails to make clear in the text that the OSP had nothing to do with any of the activities under review. None of this work or the resulting documents was done by, for, or under the direction of the OSP. The work reviewed in this Project was substantially completed before the OSP even came into *de facto* existence in mid-August 2002. (The Draft Report states that OSP was created in October 2002; it was in that month that certain formalities were implemented.) The Draft Report also errs in stating that the OSP was "disbanded" in July 2003. In fact it was merely renamed as the Office of Northern Gulf Affairs, remaining in NESA as before, and its personnel continued to perform their policy functions regarding that region.

(U) Likewise, none of this work or the resulting documents was done by, for, or under the direction of the PCTEG or the Policy Support Office as such.

(U) Nor did the Under Secretary of Defense for Policy ever approve or adopt any of the draft opinions or conclusions in any of the resulting documents as OUSD(P) positions, views or conclusions.

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1. The PCTEG (U)

(U) The first activity relevant here was an ad hoc group, formed by the Under Secretary of Defense for Policy (USDP) shortly after the 9/11 attacks. The mission of that group was to review all available information about a number of international terrorist organizations with a basic focus on the question: What does it mean to be at war with a terrorist network?⁹ The Draft Report erroneously states that this group was formed "to conduct an independent analysis of the al-Qaida terrorist network" (page 2). In fact, the group's work was not limited to al-Qaida but addressed more generally various major terrorist groups and their relations with their state sponsors. This group commenced work in approximately October 2001 with two members: a consultant, and a detailee from the Defense Threat Reduction Agency. The group requested and received relevant intelligence information from the Intelligence Community and did preliminary work on the subject assigned. Both members, however, left for other duties towards the end of 2001 and the beginning of 2002. Neither of them ever worked in or took direction from the OSP or the Policy Support Office.

(U) In January 2002 the USDP decided to continue the project in a more formal way, by naming the project the "Policy Counter Terrorism Evaluation Group" (PCTEG) and formally requesting detailees from DIA. The memo approving creation of the PCTEG described its task as follows:

- (U) Study al-Qaida's worldwide organization including its suppliers, its relations with States and with other terrorist organizations (and their suppliers).
- (U) Identify "chokepoints" of cooperation and coordination.
- (U) Identify vulnerabilities.
- (U) Recommend strategies to render the terrorist networks ineffective.¹⁰

(U) Also, as early as January 2002, the Deputy Secretary among others was raising questions about possible links between Iraq and the al-Qaida terrorist network.¹¹ In addition to the information and analyses he regularly received through established

⁹ (U) Statement of Douglas J. Feith, Under Secretary of Defense for Policy, on the Policy Counter Terrorism Evaluation Group, before the Select Committee on Intelligence, U.S. Senate, 10 July 2003, *USDP and Senator Levin Correspondence, November 03-July 05*, Tab 14.

¹⁰ (U) Memo from ASD (ISA) to USDP (31 January 2002), *USDP Congressional Correspondence November 02-February 04*, Tab 18.

¹¹ (U) Memo from DSD to USDP (22 January 2002), reproduced as Appendix E to the Draft Report.

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intelligence channels, the Deputy also asked for input from OUSD(P), including in a memo to the USDP on January 22, 2002.¹² He received a reply from the Assistant Secretary of Defense for International Security Affairs on January 24, 2002, summarizing information suggesting "few direct links" and other information "suggesting more robust indirect links."¹³ There was nothing unusual or improper about this. How to assess the information provided by the IC and what, if any, decisions to make or conclusions to draw from it are central responsibilities of the Deputy and other senior policy officials of the Defense Department. It was not remarkable that the Deputy consulted OSD policy offices as well as the IC on possible links between Iraq and al-Qaida.

(U) In February 2002 USDP requested the Director of DIA to provide three detailees to the PCTEG.¹⁴ In response, DIA provided two of the three individuals requested, both reserve Naval intelligence officers then assigned to the J-2. Contrary to the Draft Report (page 2), these officers were not detailed to OUSD(P) in October 2001; rather, they were detailed in February 2002, as replacements for the two original members of the PCTEG who were gone by the time the two DIA detailees arrived. One of these DIA detailees departed in April 2002, leaving only one member of the "group," who continued to work as the sole member of the PCTEG until he was demobilized from Naval reserve duty in January 2003.¹⁵

(U) The PCTEG member who departed in April 2002 never worked in or took direction from the OSP or the Policy Support Office, nor did the sole remaining PCTEG member at any time relevant here.¹⁶

(U) As originally conceived, the PCTEG was to function under the joint chairmanship of the Principal Deputy Assistant Secretary of Defense for SO/LIC and the Deputy Assistant Secretary of Defense for NESA¹⁷ (not by the ASD (ISA) and ASD (SO/LIC) as the Draft Report incorrectly implies at page 2). But the group never had

¹² (U) *Ibid.*

¹³ (U) Memo from ASD(ISA) to DSD (24 January 2002), reproduced as Appendix F to the Draft Report.

¹⁴ (U) Memo for Director, Defense Intelligence Agency (2 February 2002), *ibid.*

¹⁵ (U) Roster of PCTEG and Special Plans/Northern Gulf, *USDP Congressional Correspondence November 02-February 04*, Tab 16A.

¹⁶ (U) After being demobilized from Naval reserve duty in 2003, the former single remaining PCTEG member did return to OUSD(P) and worked as a civilian in OSP for a time, but that was after the work relevant to this Project had been completed.

¹⁷ (U) Memo from ASD (ISA) to USDP (31 January 2002), *USDP Congressional Correspondence November 02-February 04*, Tab 18.

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more than two members and soon dwindled to one; thus it never attained the degree of operational formality implied by this nominal joint chairmanship. When the DSD began to take a more active role on the specific issue of the relationship between Iraq and al-Qaida, as discussed below, the single remaining member of the PCTEG participated with others in replying to DSD taskings and at times responded directly to the DSD in that regard. At no time did the PCTEG report to or take direction from the OSP or the Policy Support Office.

(U) The PCTEG produced a 154-page draft briefing entitled "Understanding the Strategic Threat of Terror Networks and their Sponsors,"¹⁸ which was revised and updated periodically. Consistent with the mission of the PCTEG, this briefing examined the methods and operations of various terrorist organizations (including but not limited to al-Qaida), the nature of their ties with their state sponsors, and various policy considerations on dealing with the threat posed by these groups.

(U) This briefing was the sole substantive work product by the PCTEG as such. The briefing was separate from the work, addressed in the Draft Report, on the specific issue of the Iraq-al-Qaida relationship.¹⁹ The PCTEG briefing was an internal Policy staff-level product that was never presented outside the Policy organization and never approved by senior policy makers as an official OUSD(P) position, so far as any facts known to us are concerned, and the Draft Report does not contend otherwise. Indeed, the Draft Report only briefly mentions but does not discuss this solitary PCTEG product.

(U) The Draft Report mischaracterizes events in stating (page 3) that the one remaining PCTEG member created a briefing in the summer of 2002 on links between Iraq and al-Qaida "with the assistance of a member of OUSD(P)'s Policy Support Office and a Special Assistant to the Deputy Secretary of Defense." Here and throughout, the Draft Report ignores or downplays the central fact that the Deputy Secretary of Defense directed the work to be done, as discussed more fully below. He gave the assignment initially to his Special Assistant, not to the sole PCTEG member or the Policy Support Office staffer or anyone else in OUSD(P). The latter two individuals did participate in responding to the Deputy Secretary because of the circumstances explained in these comments. But it is a gross distortion to suggest, as the Draft Report does, that the sole PCTEG member originated this effort or that it was an OUSD(P) activity.

(U) The Draft Report also mischaracterizes events in stating (at page 3) that "OUSD(P) dissolved the PCTEG shortly" after the draft briefing was given to the Deputy

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¹⁸ (U) *Ibid.* Tab 15.

¹⁹ (U) Although this PCTEG briefing was separate from the work on the specific issue of the Iraq-al-Qaida relationship done elsewhere in OSD, it obviously overlapped to a degree and eventually led to the one remaining PCTEG member's being included in the work on that single issue.

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National Security Advisor and the Vice President's Chief of Staff in September 2002. There was no formal action dissolving the PCTEG; rather, the "group" withered away when its sole remaining member was demobilized from Naval reserve duty in 2003.

2. The DIA Analyst Detailed to the Policy Support Office (U)

(U) The second activity relating to the work under review was begun by a career DIA analyst whom DIA had detailed, in January 2002, to the former Policy Support Office of the Deputy Under Secretary of Defense (Policy Support) in OUSD(P). At no time did this detailee work in or take direction from the OSP or the PCTEG.

(U) DIA detailed this analyst in response to the USDP's by-name request. Although the Draft Report states (page 2) that the Policy Support Office requested this DIA analyst due "to the voluminous amounts of intelligence the office was receiving but was unable to assess," the quoted phrase does not appear in USDP's request. This analyst was a 25-year intelligence veteran who, at the time of USDP's request, was assigned to the Interagency Damage Assessment Team for the Robert Hanssen case. This analyst had had previous experience, *inter alia*, providing intelligence support to policy levels as well as experience in Foreign Denial and Deception analysis that the USDP needed to support certain intelligence-related duties then assigned to the Policy Support Office.²⁰

~~(SAC)~~ This analyst was tasked in the Policy Support Office to provide policy support for special access programs and to carry out other duties requiring a review of various intelligence products. Sometime in early 2002, in the course of her work, she came across a finished 1998 CIA report on [REDACTED]. The report mentioned that Usama Bin Laden had requested and received certain training from an Iraqi [REDACTED] service. On her own initiative, she requested and received through CIA channels the underlying information on which the item was based, [REDACTED] and subsequently obtained additional CIA reports from DIA and CIA on the issue of Iraq and al-Qaida.²¹

(U) As this was the only reporting that this analyst had seen on Bin Laden in this connection, and because she considered it important data for a discussion on Iraqi intelligence and al-Qaida, she wrote a one-page "assessment" (in her words) of the IC reporting and gave it to the DUSD (PS), ASD (ISA), USDP, and DSD.²²

²⁰ (U) Memo from USDP to Director, DIA (23 November 2001), *USDP Congressional Correspondence November 02-February 04*, Tab 17; Memorandum for the Record (30 October 2002), *ibid*.

²¹ (U) Memorandum for the Record (17 April 2002), Memorandum for the Record (30 October 2002), *USDP Congressional Correspondence November 02-February 04* Tabs 17 and 18.

b(1)

b(3)

²² (U) Memorandum for the Record (17 April 2002), *ibid* at Tab 17.

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(U) Again on her own initiative, in early spring 2002 the analyst met with the chief of DIA's Joint Intelligence Task Force for Combating Terrorism (JITF) and gave him a copy of the reference in the finished CIA report, the two underlying reporting documents, and her one-pager. (This one-pager should not be confused, as the Draft Report seems to do, with a later, July 25, 2002 internal memo that this analyst wrote in preparation for the August 2002 briefing to the Secretary of Defense, discussed below.²³) She recommended that the JITF publish the IC reporting data "so that it would be available to the entire IC because reports published previously did not contain this important data" and that, without it, "analysis of the subject would be incomplete and inaccurate in the future."²⁴ Over the next two weeks she spoke twice with the JITF chief, who told her he had given the materials to the J-2's senior analyst but had heard nothing back.

(U) The analyst then called the J-2's senior analyst and again recommended that the IC reporting information be published to the entire IC. The J-2 analyst responded that "putting it out there would be playing into the hands of people like Wolfowitz," that the information "was old" and "only a tid-bit," asked how did she "know that the information was true," made a comment about trying to support "some agenda of people in the building," and bucked the issue of publication back to the JITF chief.²⁵ The JITF took no further action on the recommendation to publish the information, so far as we know.

(U) Meanwhile, the DIA analyst detailed to the Policy Support Office continued to gather and review CIA material on Iraq and al-Qaida. At some point in April or May

²³ (U) The Draft Report (page 8) states that this analyst attempted but failed to persuade the JITF Director and the J-2's senior analyst to publish as an "Intelligence Finding" a July 25, 2002 memo, entitled "Iraq and al-Qaida: Making the Case." The July memo was an internal document that she wrote in preparation for the SecDef briefing, as discussed more fully below. Nothing in the record known to us indicates any attempt to obtain IC concurrence with the content of the July 25, 2002 memo, nor was there any requirement to do so. Comments to that effect in the Draft Report seem to be a mistaken reference to the earlier effort, in the spring of 2002, to persuade the IC to publish intelligence reports the analyst had found about Iraqi training provided to Bin Laden. The Draft Report claims that "OUSD(P) proceeded to disseminate" the briefing to the SecDef despite being "unsuccessful in convincing the Intelligence Community to publish the alternative intelligence assessments as an Intelligence Finding." This claim is wrong. There was no attempt to get the IC to publish "alternative intelligence assessments," there was no requirement to do so, there was no requirement for IC concurrence on the briefing the DSD had directed to be given to the SecDef, and neither the July memo nor the August 2002 briefing contained any "alternative intelligence assessment."

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²⁴ (U) Memorandum for the Record (17 April 2002), *USDP Congressional Correspondence November 02-February 04*, Tab 17.

²⁵ (U) *Ibid.* Judging from this response, the J-2's senior analyst may have been unfamiliar with DIA's DI Policy No. 005 (5 June 2001), the first sentence of which states, "Curiosity and integrity are the hallmarks of good analysis."

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2002, she became aware of the broader work by the PCTEG on various terrorist organizations.²⁶

3. The Deputy Secretary's Tasking to Brief the Secretary of Defense (U)

(U) Soon thereafter, in approximately July 2002, the DSD initiated the third strand of work relevant here – the strand that resulted in the activities labeled as “inappropriate” in the Draft Report. Specifically, the DSD directed his Special Assistant²⁷ to prepare a briefing for the Secretary of Defense on Iraq and links to al-Qaida, based on a review “in a different framework” of IC reports on connections between al-Qaida and Iraq.²⁸ In particular, this review was motivated by the issue of whether there was any *a priori* reason to believe that ideological opponents, (e.g., secular Iraqi Baathists and Islamic extremists) would never cooperate against a common foe. By this point in time, the DSD’s Special Assistant, the DIA analyst detailed to the Policy Support Office, and the single remaining member of the PCTEG had all become aware of the separate but related work of each. Accordingly, the three of them collaborated in preparing the briefing for the Secretary of Defense as directed by the DSD.

(U) The record does not support the Draft Report’s assertion (page 12) that the Deputy Secretary asked for an “intel briefing” when he tasked his Special Assistant to prepare the briefing for the Secretary on Iraq and al-Qaida. That characterization only appears in an internal e-mail, the author of which was not present when the Deputy gave the tasking and had no personal knowledge of how the Deputy in fact formulated his instructions.²⁹

(U) The Report makes much of an internal July 25, 2002 memo entitled “Iraq and al-Qaida: Making the Case.” This memo is dated after its author, the DIA detailee to Policy Support, learned of DSD’s instruction to his Special Assistant to prepare the briefing for the Secretary of Defense³⁰ and, according to its author, was done preliminary

²⁶ (U) Memorandum for the Record (30 October 2002), *USDP Congressional Correspondence November 02-February 04*, Tab 18.

²⁷ (U) DSD’s Special Assistant at the time was an individual detailed to DSD from the Policy organization. At all relevant times this Special Assistant reported directly to, and took direction exclusively from, the DSD. At no time did the Special Assistant work in or take direction from the OSP, the PCTEG, or the Policy Support Office.

²⁸ (U) Explanatory Note to E-Mail of 7/22/02, *USDP Congressional Correspondence November 02-February 04*, Tab 17.

²⁹ (U) *Ibid.*

³⁰ (U) E-mail dated July 22, 2002, *USDP Congressional Correspondence November 02-February 04*, Tab 17.

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to that briefing.³¹ The Report asserts (page 6) that this memo constituted an "OUSD(P)... alternative intelligence assessment."³² The Report claims that there was then a "translation of that alternative intelligence assessment" into the briefing for the Secretary of Defense, which "translation" the Draft Report characterizes (page 6) as an "Intelligence Activity, and more specifically, Intelligence Production" on the part of OUSD(P).

(U) To the contrary, the July 25, 2002 memo was not an "OUSD(P)" assessment of any sort, let alone an "alternative intelligence assessment." Nor was it an "Intelligence Finding" as the Draft Report misleading implies (page 6). It was, rather, a staff-level memo containing only two introductory paragraphs of commentary, followed by a list summarizing various IC reports on contacts between Iraq and al-Qaida.

(U) The Draft Report erroneously asserts (page 9) that the memo described these as "known" contacts. It does not. The phrase "known contacts" does not appear in the memo.

(U) The two introductory paragraphs of the July 25 memo read as follows:

(U)³³ Some analysts have argued that Usama Bin Laden would not cooperate with secular Arab regimes such as Iraq because of differences in ideological and religious beliefs. Reporting indicates otherwise. In fact, a body of intelligence reporting for over a decade from varied sources reflects a pattern of Iraqi support for al-Qaida activities. The covert nature of the relationship makes it difficult to know the extent of that support. Moreover, intelligence gaps exist because of ... Iraq's need to cloak its activities, thus preventing collection of information on additional contacts between Iraq and al-Qaida.

(U)³⁴ Published intelligence analyses continue to suggest that ties between Iraq and al-Qaida are not "solid" or "provable." Intelligence

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³¹ (U) Letter from USDP to Hon. Pat Roberts (June 29, 2004), *USDP Congressional Correspondence March 04-August 04*, Tab 30.

³² (U) In contrast, the DIA Senior Intelligence Analyst in the JITF-CT said that the memo had "no intelligence value" because, in the words of the Draft Report, it "contradicted the Intelligence Community assessments...." (Draft Report page 9).

³³ (U) The original version of this paragraph was classified. The classified information has been omitted and the paragraph declassified accordingly.

³⁴ (U) The original version of this paragraph was classified because of content in the bullets that followed it. Those bullets have been omitted here, and the paragraph declassified accordingly.

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assessments do not require juridical evidence to support them. Legal standards for prosecution needed in law enforcement do not obtain in intelligence assessments, which look at trends, patterns, capabilities, and intentions. Based on these criteria, the following information clearly makes the case for an Intelligence Finding – that Iraq has been complicit in supporting al-Qaida terrorist activities.³⁵

(U) The Draft Report does not define the term "intelligence assessment," and we are not aware of a commonly accepted definition. But it is apparent that the above-quoted paragraphs are merely making an argument that the *Intelligence Community* should make an "Intelligence Finding" that Iraq had been complicit in supporting al-Qaida terrorist activities. Considering the far more explicit statements to Congress about Iraqi assistance to al-Qaida by the Director of Central Intelligence (DCI) himself, discussed below, the quoted comments by DIA's detailee to Policy hardly seem extreme. In any case they do not rise to the level of an "intelligence assessment" by the "OUSD(P)" or an "Intelligence Finding" by anyone.

(U) The Draft Report asserts (page 8) that "OUSD(P) disseminated alternative intelligence assessments without Intelligence Community consensus to senior decision-makers." The Draft Report asserts (page 8) that OUSD(P) should have followed procedures contained in DIA's DI Policy No. 005 (5 June 2001), which allegedly "detailed appropriate methods within Defense Intelligence for addressing alternative judgments in those rare instances where consensus could not be reached."

(U) These assertions are wrong. Apart from the fact that the work was not "OUSD(P)" assessments and not in any case "intelligence assessments," the Draft Report ignores the fact that the Deputy Secretary had asked for a critical reading by non-IC staff members of assessments already provided by the IC. He had not asked for an alternative intelligence judgment and specifically directed that a "consensus" with the IC was not the purpose of this work. As the Deputy wrote in a memo after the briefing to the Secretary:

"That was an excellent briefing. The Secretary was very impressed. He asked us to think about some possible next steps to see if we can illuminate the differences between us and the CIA. The goal is not to produce a consensus product, but rather to scrub one another's arguments" (emphasis in original).³⁶

(U) It would have been contrary to the Deputy's direction, not to say futile, for the staffers doing this work to have sought an IC consensus on what was specifically

³⁵ (U) The full text of the July 25, 2002 memo is attached as Tab 2 to Letter from USDP to Hon. Pat Roberts (June 29, 2004), *USDP Congressional Correspondence March 04-August 04*, Tab 30.

³⁶ (U) Memo from Paul Wolfowitz to Tina Shelton, et al. (8 August 2002), *USDP Congressional Correspondence November 02-February 04*, Tab 17.

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intended as a critique of IC work, not as a competing "intelligence assessment." Yet the OIG apparently believes that it would have been more appropriate for these staff members to have disregarded the Deputy's direction.

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(U) Even if the objective had been to obtain an "alternative intelligence judgment" from the IC, which the Draft Report inexplicably seems to say was or should have been the case, neither DI Policy No. 005 nor DI Policy No. 004 (also cited by the Draft Report) provides any procedure whatever for the DIA's customers to obtain such an alternative judgment. Both documents are confined solely to situations in which a DIA analyst, working as such within DIA, wishes to put forward an alternative analysis or alternative judgment through DIA's chain of command. In the present case, one of the individuals responding to the Deputy's tasking had no connection with DIA at all, and the other two were working in policy positions on detail to OUSD(P). There is no factual or legal basis for the Draft Report's assertion that these internal DIA policies continued to apply to these detailees while assigned to OUSD(P). The full texts of these internal DIA policies are attached at Appendix A.

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(U) The Report claims (page 8) that the DIA detailee who wrote the July 25, 2002 memo "requested first from the Director of the Joint Intelligence Task Force for Combating Terrorism (JITF-CT) and then the Joint Staff J2's Senior Analyst to publish the alternative intelligence assessment as an 'Intelligence Finding,'" rather than using "the standard process of coordinating to obtain consensus from the Intelligence Community" or to "follow the procedures for developing an Alternative Judgment." Apart from the mischaracterization of this memo as an "alternative intelligence assessment," the Draft Report lends great weight to this supposed failure in obtaining IC concurrence, stating (page 8) that "OUSD(P) proceeded to disseminate the August 2002 briefing" to the Secretary though having been "unsuccessful in convincing the Intelligence Community to publish the alternative intelligence assessments as an Intelligence Finding."

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(U) As noted above, this comment may be a mistaken reference to an earlier unsuccessful attempt by the DIA detailee to persuade the JITF to publish intelligence reports she had found on certain training provided to Bin Laden by Iraqi services. Whether or not the memo's author attempted to coordinate it with the JITF or J-2, there was no requirement to do so since the memo was an internal Policy staff product done in preparation for a briefing that the DSD had directed his staff to prepare for the Secretary of Defense.

(U) It bears emphasis that the DSD gave this direction to his staff, not to the Intelligence Community, as discussed above. Presumably the OIG has interviewed the former DSD to explore his reasons for so doing, though the Draft Report does not elucidate this. The written record seems clear, however, that the DSD was not seeking to have the IC publish an "Intelligence Finding" and was expressly not trying to produce a

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consensus product with the IC. Rather, he wanted a critique from a policy perspective of information already provided by the Intelligence Community, followed by an exchange of views with the IC to see how the various arguments might hold up in the give and take of vigorous debate.

B. Draft Briefing to the Secretary of Defense (U)

(U) The briefing, marked "draft," was given to the Secretary on August 8, 2002³⁷ and became the first of three versions of the briefing as explained below, all of which were marked as "Draft" or "Draft Working Papers."³⁸ Entitled "Assessing the Relationship Between Iraq and al Qaida," the briefing summarized existing intelligence products and traffic on contacts between Iraq and al-Qaida. The briefing asked *but did not directly answer* the following "Key Questions":

- (U) "What is the probability that there are contacts between Iraq and al Qaida?"
- (U) "What is the probability that there is cooperation regarding such support functions as finances, expertise, training and logistics?"
- (U) "What is the probability that Iraq and al Qaida actually coordinate on decisions or operations?"
- (U) "What is probability that if a relationship existed, Iraq and al Qaida could conceal its depth and characteristics from the United States?"

The briefing then identified various areas of activity in which Iraq and al-Qaida *might* have an incentive to cooperate, and for each area summarized the available intelligence relating to Iraq's and al-Qaida's actions in those areas over time.

(U) One slide entitled "What Would Each Side Want From a Relationship?" lists several categories of potential Iraqi and al-Qaida objectives that each side might help the other in fulfilling (e.g., training, financing, disruption of Kurdish opposition, etc.). It is specifically in regard to these categories that the briefing slide stated "Intelligence indicates cooperation in all categories; mature, symbiotic relationship."

³⁷ (U) Memo from Paul Wolfowitz to Tina Shelton, et al. (8 August 2002), *USDP Congressional Correspondence November 02-February 04*, Tab 17.

³⁸ (U) All three versions of the briefing are attached to Letter from USDP to Hon. Carl Levin (25 March 2004), *USDP and Senator Levin Correspondence, November 03-July 05*, Tab 9.

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(U) The Draft Report (page 6) misquotes this slide by transforming the subjunctive question in the slide's title ("what would each side want...?") into an unconditional assertion of "what each side wants from a relationship."

(U) Contrary to the Draft Report's mischaracterizations (e.g., page 8), the briefing did not assert that intelligence indicated cooperation in all categories of possible endeavor or a mature, symbiotic relationship in all respects, and "OUSD(P)" most certainly never so contended. No category listed on this slide, and nothing elsewhere in any version of the draft briefing, referred to cooperation in the conduct of specific terrorist operations or to cooperation in operations of any sort.

(U) Here and throughout, the Draft Report misstates what the draft briefing said. It overstates the briefing's caveated observations as "assessments" and "conclusions," always arbitrarily attributed to "OUSD(P)."

(U) The whole thrust of the draft briefing was to examine the question, in response to DSD's tasking, whether existing intelligence might suggest alternative interpretations if one assumed that Iraq and al-Qaida might be willing to cooperate in a relationship that both would have compelling reasons to hide, and to ask what each side might want from such a relationship.

(U) The question was pertinent because a contrary assumption underpinned a considerable part of the IC analysis, namely, that Iraq's secular Baathist regime and Islamic extremists such as al-Qaida would not cooperate because of their ideological and religious differences. The Draft Report fundamentally errs in failing to review the draft briefing in the light of its purpose – to respond to DSD's request for an alternative view based on an alternative assumption.

(U) Each version of the draft briefing included a slide entitled "Findings." None of these "findings" asserted cooperation between Iraq and al-Qaida in all possible categories of endeavors or a mature relationship in general. The "findings" in their entirety were as follows:

- (U) "More than a decade of numerous contacts"
- (U) "Multiple areas of cooperation"
- (U) "Shared anti-US goals and common bellicose rhetoric
– Unique in calling for killing of Americans and praising 9/11"
- (U) "Shared interest and pursuit of WMD"

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- (U) “[One indication of]³⁹ [One possible indication of]⁴⁰ [Some indications of possible]⁴¹ Iraqi coordination with al Qaida specifically related to 9/11”

- (U) “Relationship would be compartmented by both sides, closely guarded secret, indications of excellent operational security by both parties”

(U) The reference to possible “coordination with al Qaida specifically related to 9/11” was at no time presented as a conclusion that Iraq and al-Qaida had in fact cooperated in regard to the 9/11 attacks.

(U) Furthermore, both versions briefed outside the Defense Department were caveated by the word “possible” in reference to “coordination.” And *all three versions* of the draft briefing included an additional caveat, in a slide preceding the “Findings” slide, stating that “*fragmentary reporting points to possible* Iraqi involvement” in 9/11 and previous al-Qaida attacks (emphasis added).

(U) These caveated statements in the draft briefing were not “OUSD(P)” “assessments” and were not presented as such at any of the three presentations of the briefing.

(U) The Draft Report errs in its repeated assertion (e.g., page 7) that “OUSD(P) assessed the Iraq – al-Qaida relationship as having a higher degree of cooperation than those conclusions supported by the Intelligence Community.” As discussed above, the draft briefing was more conditional and less certain in its discussion of “possible” cooperation than the Draft Report asserts.

(U) On the other hand, the DCI’s statements on the subject – which the Draft Report does not address – were more robust than the OIG admits. The Draft Report attempts to portray a wide gulf between the draft briefing’s observations and the IC’s assessments by quoting from IC products stating that there are “no conclusive signs of cooperation on specific terrorist operations” and no “compelling evidence demonstrating direct cooperation” (page 7). But, as discussed, the draft briefing never asserted that there was any operational relationship or any cooperation on specific terrorist operations.

(U) In any event the draft briefing was not an “OUSD(P)” assessment of any sort. Nowhere did any version of the draft briefing state that it presented an “OUSD(P)” position or assessment, the USD(P) never approved or represented the draft briefing as an

³⁹ (U) Version briefed to the Secretary of Defense.

⁴⁰ (U) Version briefed to the DCI.

⁴¹ (U) Version briefed to the Deputy National Security Advisor.

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"OUSD(P)" assessment, the Draft Report cites no facts supporting its repeated assertions to the contrary, and there are none.

C. The Secretary of Defense's Direction to Brief DCI, Draft Briefing to DCI, CIA Meeting (U)

(U) After receiving the briefing on August 8, 2002, the Secretary of Defense directed that it be given to the DCI, which was done on August 15, 2002 at the CIA.⁴² The USDP attended this meeting and was accompanied by two of the authors of the briefing. At the outset of the meeting the USDP made a statement stressing that this briefing was merely one way of looking at the underlying information, that no one was saying it was necessarily the correct way, and that there were also other ways to view the information. In other words, he made clear that the briefing was for the purpose of discussion and was not presented as an approved OSD or OUSD(P) position.

(U) The draft briefing as given to the DCI did not include a slide entitled "Fundamental Problems with How Intelligence Community is Assessing Information" that was included in the other two versions. This slide criticized the IC for applying an overly strict "juridical" standard in its assessments of the Iraq-al-Qaida relationship, underestimating the importance each side would attach to hiding a relationship, and making an assumption that secularists and Islamists would not cooperate even when they had common interests. It was omitted from the DCI briefing because its critical tone at the DCI-hosted meeting might have distracted from a discussion of the substance.⁴³ Even without the omitted slide, however, it was clear from the overall content that the draft briefing was suggesting insufficient attention and analysis by the IC to a number of intelligence reports on contacts between Iraq and al-Qaida – a point that was made explicitly at a subsequent meeting at CIA on August 20, 2002, discussed below.

(U) The reference in the briefing to possible Iraqi coordination with al-Qaida related to 9/11 was based on a report from the Czech intelligence service that future 9/11 highjacker Mohammad Atta had met with the Prague chief of the Iraqi Intelligence Service in April 2001. All three versions of the draft briefing, including the one given to the DCI, had a slide entitled "Summary of Known Iraq-al Qaida Contacts, 1990-2002" that included the statement "2001: Prague IIS Chief al-Ani meets with Mohammad Atta in April."

~~(SACF)~~ Whether or not it was an overstatement to describe the reported Atta meeting as a "known contact," the fact is that at the time of this briefing the Czech intelligence service stood firmly by its report [redacted]

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⁴² (U) SSCI Report, p. 362.

⁴³ (U) Letter from USDP to Hon. Carl Levin (25 March 2004), *USDP and Senator Levin Correspondence, November 03-July 05*, Tab 9.

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[REDACTED] In contrast, the CIA report cited at page 7 of the Draft Report describes the reporting on the alleged meeting as "[REDACTED]. [REDACTED] The DIA report, also cited at page 7, states that the Atta meeting is "[REDACTED]" But at no time relevant to this Project did the US Intelligence Community articulate and disseminate any conclusive coordinated judgment that the reported Atta meeting did not occur.

(U) In any case all versions of the draft briefing merely spoke of an "indication" of "coordination" regarding 9/11 in regard to this alleged meeting, both versions presented outside the Defense Department added the further caveat of "possible," and no version of the draft briefing asserted that Iraq and al-Qaeda actually cooperated operationally or otherwise in regard to the 9/11 attacks.

(U) Furthermore, during all times relevant to this Project the question of the reported Atta meeting was well known and vigorously discussed throughout USG policy and intelligence circles with responsibility for Iraq. There can be no doubt that all recipients of the draft briefing, and most particularly the Secretary of Defense, the DCI, the Deputy National Security Advisor and the Vice President's Chief of Staff, were aware of the controversy surrounding the alleged meeting. They all were recipients of the IC's judgments on this and related matters, both before and after receiving the draft briefing. There is no factual basis whatever to suggest that any of them would have been misled by anything about this meeting in any version of the draft briefing, or would have misunderstood the draft briefing to be some sort of "intelligence assessment" by OUSD(P).

(U) The DCI reportedly found the briefing "useful."⁴⁴ The DCI asked the OUSD(P) staffers to speak with the CIA's NESA and CTC experts on Iraq and terrorism. As a result, the two OUSD(P) staffers who briefed the DCI were invited to attend an August 20, 2002 meeting of analysts from the CTC, NESA, the National Security Agency and the DIA who convened to discuss ongoing intelligence community work assessing Iraq's links to terrorism. At the meeting the OUSD(P) staffers pointed out various intelligence reports that had not been included in finished intelligence products and suggested that such reports should be included. Some of their suggestions were adopted and some were not.

(U) The Draft Report notes (page 10) that in this meeting the "CIA was even willing to footnote its report with the OUSD(P) conclusions that differed from the report's findings." In fact, there was no offer to footnote "OUSD(P) conclusions," and in any case there were no "OUSD(P) conclusions" on the matter at hand, hence none to

⁴⁴ (U) Memo Entitled "Quick Points on the Policy Team's Visit with DCI" (16 August 2002), *USDP and Senator Levin Correspondence, November 03-July 05*, Tab 9.

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footnote. Also, the OUSD(P) staffers in attendance did not decline footnotes because they were "unable to speak for Defense Intelligence" as the Draft Report (page 10) puts it, although in fact they were not. The actual exchange was simply this: One of the OUSD(P) staffers (the DIA analyst to the Policy Support Office), when asked to prepare footnotes on the issues with which *she* disagreed, declined to do so, stating that "I was an employee in Policy, not wearing an intelligence hat. I could only ask why reporting was not included in finished products and ... make recommendations to include it."⁴⁵

(U) In its unanimous report on pre-war intelligence issues in July 2004, the Senate Select Committee on Intelligence stated that all attendees of the August 20, 2002 meeting "interviewed by the Committee staff (eight of the twelve individuals) agreed that the OUSDP staffers were not given special treatment[,] ...their attendance contributed to a frank exchange of opinions" and they "played by IC rules...."⁴⁶ The Committee Report also noted more generally that:

"In some cases, those interviewed stated that the questions had forced them to go back and review the intelligence reporting, and that during this exercise they came across information they had overlooked in initial readings. The Committee found that this process – the policymakers probing questions – actually improved the Central Intelligence Agency's ... products."⁴⁷

D. Deputy National Security Advisor's Request, DSD's Direction, Draft Briefing to Deputy National Security Advisor (U)

(U) The Draft Report mischaracterizes these events as "Dissemination of OUSD(P)'s Alternative Intelligence Assessment to the White House" page 10). What transpired is this:

(U) Following a reference to the briefing at a Deputies Committee meeting in August 2002, the Deputy National Security Advisor requested to receive the briefing. The Deputy DCI was a designated member of the Deputies Committee, and he or his designee consistently attended its meetings. On the morning of September 16, 2002, the Deputy Secretary's office instructed the OUSD(P) staffers who had helped prepare the draft brief to present it to the Deputy National Security Advisor and the Vice President's Chief of Staff. They did so the same day at a meeting hosted by the Deputy National Security Advisor in the Situation Room, with the Vice President's Chief of Staff attending for at least part of the meeting.

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⁴⁵ (U) Memorandum for the Record (30 October 2002), *USDP Congressional Correspondence November 02-February 04*, Tab 17.

⁴⁶ (U) SSCI Report, pp. 362, 363.

⁴⁷ (U) SSCI Report, p. 34.

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(U) The Draft Report fails to mention that the OUSD(P) staffers gave the September 16 briefing because they were instructed to do so by the Deputy Secretary's office in response to the Deputy National Security Advisor's request. The Draft Report does correctly state (page 29) that there was no requirement for the DCI to be informed of this meeting. One might reasonably observe that there was no requirement because the meeting was not an intelligence meeting.

(U) In any case, this version of the draft briefing, just as the previous two versions, contained no intelligence assessment and was not presented as an official OUSD(P) position. It was presented not as an intelligence briefing but as an alternative assessment of IC reports, just as the prior two versions of the briefing.

(U) The Draft Report states (page 11) that this version of the draft briefing included a "previously unseen" slide entitled "Facilitation: Atta Meeting in Prague." The Draft Report fails to point out that the slide was "previously unseen" because it did not previously exist. The Draft Report incorrectly asserts that this new slide presented the alleged Atta meeting "as fact" (page 11). Nowhere does the slide describe the meeting as "fact." To the contrary, the slide repeatedly uses phrases such as "Czech service reports that Atta visited," "despite press reports of conflicting information, Czech Interior Minister ... stands by previous Czech ... reporting," "Atta reportedly held meetings....," and "Atta reportedly arrives in Prague...."⁴⁸

(U) Furthermore, the attendees at this version of the draft briefing were well informed senior officials who had access to all the IC's most highly classified and compartmented information on the subject of the alleged Atta meeting. The Deputy National Security Advisor and the Vice President's Chief of Staff certainly were familiar with the debate in the US Intelligence Community on this subject. It is ludicrous to suggest that they would have mistaken this slide or anything else in the draft brief as firm assertions of fact, much less as "intelligence assessments" by "OUSD(P)" or anyone else.

E. DCI's Congressional Statements on Iraq and al-Qaida (U)

(U) The Draft Report partially quotes from several IC reports, casting doubt on the existence of any significant cooperation between Iraq and al-Qaida, in asserting that the work under review overstated the degree of cooperation and hence "OUSD(P)" did not provide "the most accurate analysis of intelligence" (page 11). As noted above, the responsibility to provide "the most accurate analysis of intelligence" rests with the IC, not OUSD(P). More importantly, senior decision-makers already had the IC's reports and assessments on Iraq and al-Qaida and thus already had "the most accurate analysis of

⁴⁸ (U) *USDP and Senator Levin Correspondence, November 03-July 05*, Tab 9.

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intelligence" -- if one accepts, as the Draft Report seems to do, that the IC's assessments are the "most accurate".

(U) It is puzzling, therefore, that the Draft Report fails to discuss some of the most authoritative articulations of the IC's analysis on Iraq and al-Qaida – the vetted, coordinated correspondence and testimony by the DCI himself to the Congress. On October 7, 2002, the DCI wrote to SSCI Chairman Graham, responding to various questions raised in connection with the forthcoming debate on a joint resolution to authorize military action against Iraq. Regarding questions about Iraqi links to al-Qaida, the DCI wrote that Senators could draw from the following points for unclassified discussions:

- Our understanding of the relationship between Iraq and al-Qa'ida is evolving and is based on sources of varying reliability. Some of the information we have received comes from detainees, including some of high rank.
- We have solid reporting of senior level contacts between Iraq and al-Qa'ida going back a decade.

(U) By comparison, the draft briefing referred to "more than a decade of numerous contacts. The DCI's letter continued:

- Credible information indicates that Iraq and al-Qa'ida have discussed safe haven and reciprocal non-aggression.

(U) The draft briefing referred to "safe haven of last resort" as an objective that al-Qaida would want from a relationship with Iraq. The DCI's letter continued:

- Since Operation Enduring Freedom, we have solid evidence of the presence in Iraq of al-Qa'ida members, including some that have been in Baghdad.

(U) The draft briefing said that "Iraq Has Provided Safe Haven for Key Terrorists," among them al-Qaida members, including some in Baghdad. The DCI's letter continued:

- We have credible reporting that al-Qa'ida leaders sought contacts in Iraq who could help them acquire WMD capabilities. The reporting also stated that Iraq has provided training to al-Qa'ida members in the areas of poisons and gases and making conventional bombs.

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(U) The draft briefing said that Iraq and al-Qaida had a "shared interest and pursuit of WMD," that "CBRN" would be an al-Qaida objective, and that al-Qaida had sought bomb-making assistance. The DCI's letter continued:

- Iraq's increasing support to extremist Palestinians, coupled with growing indications of a relationship with al-Qa'ida, suggest that Baghdad's links to terrorists will increase, even absent military action.⁴⁹

(U) In a prepared statement to the SSCI on February 11, 2003, DCI Tenet said:

Iraq has in the past provided training in document forgery and bomb-making to al-Qa'ida. It also provided training in poisons and gasses to two al-Qa'ida associates; one of these associates characterized the relationship he forged with Iraqi officials as successful. Mr. Chairman, this information is based on a solid foundation of intelligence. It comes to us from credible and reliable sources.⁵⁰

(U) At a Senate Armed Services Committee hearing on February 12, 2003, the DCI stated:

[W]e also know from very reliable information that there's been some transfer of training in chemical and biologicals [sic] from the Iraqis to al Qaeda.⁵¹

(U) From these statements by the DCI on behalf of the Intelligence Community, it is clear that the IC "consensus" at the time ascribed considerably more "maturity" and "symbiosis" to the relationship between Iraq and al-Qaida than depicted in the Draft Report. It is also clear that the Draft Report significantly overstates the degree and significance of inconsistencies between the IC consensus and the draft briefing's observations. In any case the draft briefing was nothing more than a draft, it was not an "intelligence assessment," and it was not an "OUSD(P)" assessment or conclusion.

⁴⁹ (U) Letter George Tenet, DCI, to Hon. Bob Graham, Chairman SSCI (7 October 2002), in *E-Mail from Michael H. Mobbs (OUSD(P)) to Charles E. Edge (OIG)* (7 February 2006), at Tab C.

⁵⁰ (U) "Administration Statements on Iraq Training al Qa'ida in Chemical and Biological Weapons," attached to Press Release by Senator Carl Levin Re: Levin Says Newly Declassified Information Indicates Bush Administration's Use of Pre-War Intelligence Was Misleading (6 November 2005), in *E-Mail from Michael H. Mobbs (OUSD(P)) to Charles E. Edge (OIG)* (7 February 2006), at Tab C.

⁵¹ (U) *Ibid.*

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V. DISCUSSION (U)

A. Why are Lawful and Authorized Activities Nevertheless Called "Inappropriate"? (U)

(U) The Draft Report concludes that the activities reviewed in this Project were lawful and authorized (pages ii, 4, 13). It states that within the authority conferred by Title X, Section 113 of the United States Code, "the Secretary owns the DoD Directives governing (among others) Intelligence and Policy, and as long as Executive Orders or other legal statutes are not violated, he has the latitude to interchange roles and responsibilities" (page 34).

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(U) Despite these conclusions, the Draft Report asserts that these same activities were "inappropriate," in the OIG's opinion, because the "OUSD(P)" "products did not clearly show the variance with the consensus of the Intelligence Community and were, in some cases, shown as intelligence products" (page 4).

(U) It is somewhat difficult to understand how activities that admittedly were lawful and authorized (in this case by either the Secretary or the Deputy Secretary of Defense) could nevertheless be characterized as "inappropriate" -- particularly considering OIG's concession that the Secretary (and by logical extension the Deputy) may interchange roles and responsibilities within DoD provided no statutes or executive orders are violated. The Draft Report points to no laws, executive orders, DoD directives, DoD instructions or DoD publications that provide any guidelines for what is "appropriate" in this case, except for the Secretary's broad mandate under Title X. That mandate leads to a conclusion that the activities reviewed were "appropriate."

(U) The Draft Report is spare of analysis on why its reaches the opposite conclusion. The argument seems to be as follows:

- (U) DIA detailees to OUSD(P) reviewed the same intelligence information that the IC had used when drawing IC judgments about links between Iraq and al-Qaida. This was appropriate for policy formulation (page 12).
- (U) Appropriate policy formulation, however, "evolved into Intelligence Analysis and eventually culminated in the Intelligence Activity of Intelligence Production with the creation of alternate intelligence assessments and dissemination when the briefing was provided to the Secretary of Defense, DCI, and members of the Office of the Vice President and National Security Counsel" (page 12).
- (U) This supposed "evolution" was inappropriate because it led to performance by "OUSD(P)" of "intelligence functions that are the responsibility of Defense Intelligence" (page 14), the work products "did not clearly show the variance with

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the consensus of the Intelligence Community" (page 4), and the work products "were, in some cases, shown as intelligence products" (page 4).

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- (U) If "OUSD(P)" did not consider the IC's existing "judgment" about Iraq and al-Qaida to be correct, "OUSD(P)" should have used "existing procedures" to get a second IC "judgment" by requesting "from the Defense Intelligence community an Alternative Judgment" on that subject (pages 13-14) – instead of participating in an OSD critique of the existing IC judgment as directed by the DSD. Such "existing procedures" are said to be found in two internal DIA policies cited in the Draft Report (DI Policy Nos. 004 and 005).

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(U) It is apparent from the above summary that the Draft Report's conclusions about "inappropriate" activities rest heavily on internal DIA policies dealing with alternative IC assessments and judgments, as well as Intelligence Community concepts such as "Intelligence Activities," "Intelligence Production," "Intelligence Analysis," and "intelligence assessments." An examination of the DIA policies and relevant IC concepts shows that they do not apply to the activities reviewed here. Thus the assertion that the activities were "inappropriate" cannot withstand analysis.

(U) Before turning to the analytical errors in the Draft Report, however, we respectfully point out that the specific reasons on which the Draft Report rests its finding of "inappropriateness" do not bear scrutiny.

(U) First, the Draft Report claims that the work products were inappropriate because they "did not clearly show the variance with the consensus of the Intelligence Community." This fundamentally mischaracterizes the purpose and nature of the work. The central purpose of these activities was to look critically at existing IC work and offer a different way of understanding the IC information. Each version of the draft briefing made this clear. The senior decision-makers briefed on this work (one of whom was the DCI himself) did not need to be told that it was at variance with the IC in some respects; that was inescapably obvious. There are no facts to suggest that any of them drew any conclusions or made any decisions whatsoever solely on the basis of the draft briefing, without taking IC views into consideration.⁵²

(U) Furthermore, there was no requirement to specify in a draft work product, not offered as a proposed action item, how it might vary from IC views. The situation would

⁵² (U) It was not the place of OUSD(P) in any event to articulate what the IC "consensus" was, which would have been the first step in "clearly show[ing] the variance" as the Draft Report asserts should have been done. It was up to the IC to articulate its consensus, if it had one. The Draft Report itself shows the pitfalls of trying to articulate an "IC consensus" for the IC. The Draft Report purports to describe such a consensus but utterly fails to mention the DCI's vetted, cleared statements to Congress on the Iraq-al-Qaida relationship. Those statements do not support the Draft Report's characterization of the IC "consensus."

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have been different if the draft briefing were put forward in support of some proposed action or decision, for example, a proposal that the President make a speech to the Nation describing a relationship between Iraq and al-Qaida. In such a case, the matter would have been discussed, at the least, by the Deputies Committee. All interested agencies would have been asked to provide their views, in particular their comments on the draft briefing and any other material offered in support of or against the proposed speech. The IC would have had ample opportunity to articulate how its views did or did not vary from the draft briefing. There would have been no need for "OUSD(P)" to do that; indeed, the IC would no doubt have objected strenuously to the idea of having another agency describe how its views might vary from those depicted in the draft briefing. Obviously, nothing of the sort happened here.

(U) Second, the Draft Report asserts that the work was "inappropriate" because some of it was "shown as intelligence products." There are no facts whatsoever to support this statement. The Draft Report only gives one example, the July 25, 2002 internal staff memo (done in preparation for the draft briefing), discussed at length in Part IV above. That memo argued that the IC had sufficient information to make an intelligence finding that Iraq had been "complicit in supporting al-Qaida terrorist activities." The Draft Report mischaracterizes this memo as an "OUSD(P)" intelligence assessment. In fact it was nothing more than a staff member's opinion that the *IC* should make an intelligence finding.

(U) Third, the Draft Report considers the work reviewed inappropriate because it amounted to "intelligence functions that are the responsibility of Defense Intelligence." We explain below why the work was not "intelligence functions." But even accepting that characterization for discussion purposes only, the Draft Report in this respect contradicts its own admission that the Secretary "has the latitude to interchange roles and responsibilities" in managing the Department so long as no statutes or executive orders are violated. The Draft Report fails to explain why it was inappropriate for the Secretary and Deputy Secretary to exercise that latitude in this case. If the OIG believes the Deputy inappropriately used his latitude to assign this work to non-IC staff members, and the Secretary and Deputy misused their latitude to direct that those staff members share this work outside the Department, it is incumbent on the OIG to say so directly and to explain why it holds this opinion. It is not sufficient for the OIG simply to fault "OUSD(P)" with engaging in "inappropriate" behavior because two Policy staffers did as told by the Secretary and Deputy, and let it go at that.

B. DIA's DI Policy Nos. 004 and 005 Do Not Apply to Non-IC Offices Directed by Senior DoD Leaders to Critique Intelligence Community Work (U)

(U) The Draft Report cites Policy Nos. 004 and 005 developed by DIA's Directorate for Analysis and Production. These internal policies set out guidelines and procedures for DIA analysts who wish to propose, respectively, an alternative analysis or

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an alternative judgment when they believe that they cannot reach a consensus with other intelligence analysts on a particular issue. The Draft Report erroneously characterizes these internal DI policies as "the standard process of coordinating to obtain consensus from the Intelligence Community" that the DIA detailees to OUSD(P) should have used in this case (page 8). The Draft Report also erroneously describes these internal policies as the "existing procedures" (page 14) that OUSD(P) should use to "request that an Alternative Judgment be produced by Defense Intelligence" if OUSD(P) believes that the IC is incorrect on a given matter (page 13).

1. The Internal DIA Policies Do Not Apply to DIA Members While Detailed to Policy Positions Outside DIA's Chain of Command (U)

(U) The texts of these internal DI policies are reproduced in full at Appendix A to these comments. There is nothing in either of them to support the idea that they continue to apply to DIA analysts who are detailed to policy positions and who are tasked to do independent assessments for the express purpose of providing a non-IC critique, or review, of IC views. It is obvious from the texts that they only apply to analysts working within the DIA chain of command and proposing alternative assessments or judgments, in an intelligence capacity, within that chain of command. DI Policy No. 005, for example, provides that "the analyst forwards ... through the immediate Supervisor/Office Senior Intelligence Officer (SIO) to the Group SIO/Research Director (RD). The Supervisors/Office SIOs review ... for format and completeness. The Group SIO/RD reviews ... to ensure it accurately describes the competing analyses," etc. This process has no relevance to a situation such as the present, where the Deputy Secretary specifically directed that he wanted an alternative look at the IC's work from outside the IC and was not seeking to develop a consensus.

2. The Internal DIA Policies Contain No Procedure for an IC Customer to Obtain an Alternative IC Judgment, Which in any Case is not What the DSD Sought Here (U)

(U) Neither of these internal DI policies contains any procedure for an IC customer, such as OUSD(P), to request an "alternative judgment" from the DIA if the customer considers an existing IC judgment to be incorrect. While the Draft Report inexplicably allows that OUSD(P) "is not ... required to await final adjudication or production of an Alternative Judgment from DIA" (page 13), thus raising the question of why the "Alternative Judgment" should be sought at all, the fact remains that these internal DI policies do not provide for a customer to make such a request. One will search the texts in vain for even the slightest hint of such a procedure.

(U) The very notion that a customer should ask the IC for an alternative intelligence judgment if it dislikes the judgment already given is bizarre on its face. Such a request would inevitably bring down a firestorm of criticism that the customer was attempting to "politicize" intelligence or "pressure" the intelligence analysts into

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changing their assessments. In any event, the Deputy Secretary in the present matter expressed no wish for an "alternative judgment" from the IC, which is undoubtedly why the staffers responding to his tasking did not seek one. And he expressly directed that the objective of the work was not to develop a consensus product but rather to see how competing arguments might stand up in an exchange of views with the IC.

3. The Internal DIA Policies Were Not Coordinated or Published as Would Have Been Required If Intended to Apply Outside DIA (U)

(U) There is no basis for asserting that the DI internal policies are applicable to DoD as a whole or to OUSD(P) in particular. To the contrary, these policies have not been published; they have not been disseminated to OUSD(P) or, so far as we know, elsewhere in the Department outside DIA; and they have not been presented to OUSD(P) for review or coordination.

(U) Guidance that is intended to have Departmental applicability falls within the requirements of DoD Directive No. 5025.1, "DoD Directives System," July 27, 2000, as reissued July 14, 2004. Section 4.1 of this directive articulates a DoD policy to maintain "a single, streamlined, uniform system governing the preparation, coordination, approval, publication, dissemination, implementation, and internal review of DoD issuances...." Proposed DoD issuances "shall be formally coordinated to solicit the views of the Heads of the DoD Components" (Section 4.4). All DoD issuances "must be coordinated with the General Counsel, DoD, the Inspector General, DoD, and the Director of Administration and Management" (Section 4.4.1). The Heads of DoD Components "shall review and coordinate on proposed DoD issuances relevant to their missions" (Section 5.4).

(U) Nothing of the sort was done with regard to DI Policy Nos. 004 and 005. They have no applicability to OUSD(P). They are not "existing procedures" that OUSD(P) should have, or could have, followed in the present matter. The Draft Report's recommendation that they be followed as "existing procedures" in the future is unfounded and inappropriate.

C. "Intelligence Activities" Constitute a Process Using All Key Elements of Intelligence Work By Intelligence Agencies (U)

(U) As the guidance cited by the Draft Report (page 4-5, Appendix H) and other relevant authorities make clear, "Intelligence Activities" involve the entire process by which intelligence agencies turn information into a product that intelligence consumers can use. They do not encompass the type of work reviewed here.

(U) In asserting otherwise, the Report relies primarily on DoD Directive No. 5240.1, "DoD Intelligence Activities, April 25, 1988, and DoD Directive No. 5105.21, "Defense Intelligence Agency (DIA)," February 18, 1997. Of these, only DoD Directive

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No. 5240.1 (Section 3.1) contains a definition of "Intelligence Activities" which is as follows:

"Intelligence activities. The collection, production, and dissemination of foreign intelligence and counterintelligence by DoD intelligence components authorized under reference (b)."

(U) "Reference (b)" is Executive Order 12333, "United States Intelligence Activities," December 4, 1981, Section 3.4(e) of which defines "intelligence activities" as "all activities that agencies within the Intelligence Community are authorized to conduct pursuant to this Order." Section 3.4(f) defines "Intelligence Community and agencies within the Intelligence Community" as "the following agencies or organizations," among which the Office of the Secretary of Defense and the Office of the Under Secretary of Defense do not appear.

(U) DoD Directive No. 5240.1, Section 3.4, similarly defines "DoD intelligence components" as "[a]ll DoD Components conducting intelligence activities, including" a list of named DoD elements among which, again, the Office of the Secretary of Defense and the Office of the Under Secretary of Defense do not appear. In contrast Section 2.1 of DoD Directive No. 5240.1 does define "DoD Components" to include the Office of the Secretary of Defense. Thus the Directive carefully distinguishes "all DoD Components" from "DoD Components conducting intelligence activities." In consequence, the Directive's Section 3.1 definition of "Intelligence Activities" by its terms only encompasses "DoD intelligence components," not "all DoD Components."

(U) The above definitions make clear that "Intelligence Activities" constitute a process that entails collection, production "and" (not "or") dissemination of foreign intelligence or counterintelligence *as conducted by intelligence agencies*, and not assessments or critiques by non-intelligence offices.

(U) Various definitions in Joint Publication 1-02, *Department of Defense Dictionary of Military and Associated Terms* (12 April 2001, as amended through 16 October 2006) ("JP 1-02") also demonstrate that the term "Intelligence Activities" should be understood as a process of actions and operations conducted by the Intelligence Community to produce an intelligence product for consumers. For example, according to JP 1-02:

"intelligence" means "[t]he product resulting from the collection, processing, integration, analysis, evaluation, and interpretation of available information concerning foreign countries or areas" (JP1-02 at 268);

"intelligence process" means "[t]he process by which information is converted into intelligence and made available to users. The process consists of six

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interrelated intelligence operations: planning and direction, collection, processing and exploitation, analysis and production, dissemination and integration, and evaluation and feedback" (JP 1-02 at 270); and

"intelligence community" means "[a]ll departments or agencies of a government that are concerned with intelligence activity, either in an oversight, managerial, support, or participatory role" (JP 1-02 at 269).

(U) None of the above definitions accurately describe the critical assessment of IC information by OSD staff members that is the subject of this review.

D. Alternative or Critical Assessments of IC Information and IC Judgments by Non-IC Offices Are Not "Intelligence Activities" (U)

(U) As the above definitions of "Intelligence Activities" and related terms make clear, such activities consist of the entire process of actions and operations conducted by intelligence agencies to produce an intelligence product for consumers. It is incorrect to select one or a few activities that are part of the "intelligence process" and characterize those selected activities as "Intelligence Activities" even when conducted by non-IC policy elements of government.

(U) The definitions of "Intelligence Activities" and related terms do not encompass an alternative or critical analysis, evaluation, interpretation or assessment by a non-IC office, such as OSD or OUSD(P), of information provided by the Intelligence Community. In this context, the "analysis," etc. is merely an independent review by a non-IC organization, or in the present case by several non-IC OSD staffers, of IC information provided by the IC. In conducting this review, the non-IC organization may even exercise independent judgment about the meaning or significance of the intelligence information provided by the IC. This act of independent judgment by the non-IC organization does not constitute "Intelligence Activities" under any of the above definitions or any common-sense understanding.

(U) The mere fact that the "intelligence process" conducted by the Intelligence Community includes but is not limited to "analysis" and "dissemination" does not mean that a policy organization is conducting "Intelligence Activities" if it independently "analyses" intelligence information provided by the IC and then "disseminates" the results of its analysis. To assert such a proposition is akin to asserting that "cows have four legs and give milk, therefore, all four-legged animals that give milk are cows."

(U) The Draft Report cites the definition of "Intelligence Production" found in DoD Directive No. 5105.21 in an effort to characterize OUSD(P) activities as "Intelligence Activities." But the actual definition does not support this argument.

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(U) The term "Intelligence Production" as defined in Directive No. 5105.21 does not apply to any activities under review here. Paragraph E2.1.3 of the Directive provides:

"Intelligence Production. The validation, correlation, analysis, and interpretation of information on foreign intelligence and counterintelligence topics, including the use of automated data bases and the presentation and dissemination of the results."

This definition, just as the related definitions discussed above, makes clear that "Intelligence Production" is the full process of validation, correlation, analysis, interpretation, presentation and dissemination. It is a distortion of the definition to assert that a single activity, such as analysis or interpretation, constitutes "Intelligence Production."

(U) In the present matter, the draft briefing and work done to prepare it were nothing more than a critical review of intelligence information already produced by the IC. The work presented a fresh assessment of how that information might be understood if certain *a priori* assumptions about lack of cooperation between secularists and fundamentalists were avoided. At the very least the work under review involved no validation or correlation, as those tasks had already been done by the IC as part of its "Intelligence Production." The attempt to stretch the definition of "Intelligence Production" to include the critique of IC reports and products by a non-IC office simply does not work.

E. OUSD(P) Did Not Produce or Disseminate "Intelligence Assessments" or "Intelligence Analysis" (U)

(U) The Draft Report asserts (e.g., page 4) that the draft briefing on the relationship between Iraq and al-Qaida and the July 25, 2002 memo preliminary to the briefing were "OUSD(P)" "alternative intelligence assessments," and that this work "evolved into Intelligence Analysis" (page 12). The work reviewed was not "intelligence assessments" or "Intelligence Analysis" under any reasonable understanding of those terms.

(U) Neither the Draft Report, nor any of the authorities mentioned there or here, defines the term "intelligence assessment." Nor do they define the term "Intelligence Analysis" despite the Draft Report's use of capital letters. But extrapolating from the intelligence-related definitions discussed above, it seems reasonable to suggest that "intelligence assessments" and "Intelligence Analysis" are assessments and analysis by intelligence agencies about the meaning and significance of information acquired by them during the six-part "intelligence process" of "planning and direction, collection, processing and exploitation, analysis and production, dissemination and integration, and evaluation and feedback" (JP 1-02 at 270). It follows that "intelligence assessments" and "Intelligence Analysis" are disseminated by intelligence agencies and are clearly

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identified as the "assessment" or "analysis" of the issuing agency or intelligence community. Thus, intelligence consumers will know that they have the "assessment" or "analysis" of that agency or community on the matter at hand as opposed to someone else's assessment or analysis.

(U) Nothing of this sort took place in preparing and presenting the draft briefing in question. As Part IV (Facts) above explains in detail, the July 25, 2002 memo was an internal document done in preparation for a briefing that the Deputy Secretary had directed his Special Assistant and two DIA detailers working in the Policy organization to put together for the Secretary of Defense. The memo did not present any "intelligence assessment" or "intelligence finding" or anything that could reasonably be characterized in that way. The memo did argue that there was a case to support an "Intelligence Finding" that Iraq had been complicit in supporting al-Qaida terrorist activities. But this obviously was a suggestion that the Intelligence Community should make such an "Intelligence Finding," since neither the memo's author nor OUSD(P), the Deputy Secretary or the Secretary were capable of making an "Intelligence Finding."

(U) As Part IV above also explains, the draft briefing likewise contained no "intelligence assessments," "Intelligence Analysis" or anything that could reasonably be so described. Each version of the draft briefing was marked as "draft" or "draft working papers." Each time the briefing was given, it was well known to all in attendance that the briefers were not speaking for the Intelligence Community but, to the contrary, were presenting an alternative or critical analysis of information provided by the Intelligence Community. The analysis intentionally took a different approach from some of the IC analysis, because of the Deputy Secretary's direction to avoid the *a priori* assumption that secular Baathists and Islamic fundamentalists would never cooperate and to examine how the intelligence information might be understood in the absence of that assumption. It would be preposterous to suggest that the draft briefing was an effort to usurp the role of the IC, or that anyone was misled into believing that the draft briefing purported to express "intelligence assessments" or "Intelligence Analysis" on behalf of the IC or anyone else.

(U) Moreover, whatever the July 25, 2002 memo and the draft briefing may have been, they most certainly were not "OUSD(P)" assessments or conclusions, as the Draft Report repeatedly asserts. As Part IV (Facts) discusses in detail, these work products were never described or presented as an approved OUSD(P) or OSD position, all versions of the briefing were marked "draft" or "draft working papers," the USDP introduced the draft briefing to the DCI stating that it was merely one way of looking at the underlying intelligence and not necessarily the correct way, and the draft briefing itself was done at the Deputy Secretary's direction. The draft briefing and work leading to it were not initiated by "OUSD(P)," notwithstanding that two of the three authors happened at the time to be working in the Policy organization on detail from DIA.

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(U) The Draft Report seems to argue that the two DIA detailees continued to function as intelligence analysts even though detailed to OUSD(P) and therefore their activities in OUSD(P) "constituted intelligence analysis and in at least several cases, intelligence production, which was not one of USD(P)'s specified functions in DoD Directive 5111.1" (page 6). This contention cannot withstand scrutiny. If it were correct, OUSD(P) could never obtain intelligence analysts on detail from DIA without committing "inappropriate" "Intelligence Activities." How to characterize work done by detailees depends on the substance of what they actually do while detailees, not on the nature of their duties in their home agencies. As demonstrated above, the work in question here did not fall within any of the definitions of "Intelligence Activities" and did not constitute "intelligence analysis."

(U) The Draft Report also seeks to support its claim that OUSD(P) produced "alternative intelligence assessments" by referring to "confirmation" in interviews that the DIA detailees "conducted independent intelligence analysis resulting in analytic conclusions and products" (page 6). According to the contemporaneous written record, however, at least one of the DIA detailees said that "[a]t no point did I prepare an intelligence estimate or publish anything I had written" during her involvement in the work under review. In any event, the terminology that individuals in informal interviews may have used or acquiesced to, advertently or inadvertently, cannot alter the nature of the work they actually did or did not do. In this case they did not produce or disseminate "intelligence assessments" or "Intelligence Analysis" on behalf of OUSD(P) or anyone else.

F. The Relevant Orders and Directives Describe Intelligence Roles and Activities, They Do Not Proscribe Policy Activities (U)

(U) The Report refers to definitions from DoD guidance dealing with intelligence agencies and intelligence activities. It endeavors to apply these definitions to policy activities undertaken for policy purposes within OSD. In so doing, the Draft Report transforms these definitions into restrictions on what policy offices may appropriately do.

(U) There is no authority to support the view that definitions describing the activities of intelligence agencies also apply to policy offices, or constitute limitations or prohibitions on the activities that policy offices may appropriately conduct. To demonstrate the fallacy of that thinking, one need only return to the relevant definitions.

(U) As discussed above, DoD Directive No. 5240.1 (Section 3.1) defines "Intelligence Activities" as:

"The collection, production, and dissemination of foreign intelligence and counterintelligence by DoD intelligence components authorized under [Executive Order 12333]."

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(U) Executive Order 12333, "United States Intelligence Activities," December 4, 1981, Section 3.4(e), defines "intelligence activities" as "all activities that agencies within the Intelligence Community are authorized to conduct pursuant to this Order." Section 3.4(f) defines "Intelligence Community and agencies within the Intelligence Community" as "the following agencies or organizations," among which, as noted above, OSD and OUSD(P) do not appear.

(U) DoD Directive No. 5240.1, Section 3.4, similarly defines "DoD intelligence components" as "[a]ll DoD Components conducting intelligence activities, including" a list of named DoD elements among which, again as noted above, OSD and OUSD(P) do not appear. But Section 2.1 of DoD Directive No. 5240.1 does define "DoD Components" to include the Office of the Secretary of Defense. Thus, as also noted above, the Directive distinguishes "all DoD Components" from "DoD Components conducting intelligence activities." In consequence, the Directive's Section 3.1 definition of "Intelligence Activities" by its terms only encompasses "DoD intelligence components," not "all DoD Components," as discussed above.

(U) The above definitions make two things clear about "Intelligence Activities":

1. They constitute a process that entails collection, production "and" (not "or") dissemination of foreign intelligence or counterintelligence, and
2. They are activities *conducted by intelligence agencies*, and not policy or other assessments or critiques by non-intelligence offices, even if these activities have similarities with "intelligence activities" performed by intelligence "agencies" or "components."

(U) The Draft Report in effect expands the definition of "Intelligence Activities" contained in Directive 5240.1, Section 3.1, by dropping the restrictive clause "by DoD intelligence components authorized under [E. O. 12333]." In other words, by asserting that OUSD(P) (admittedly not a "DoD intelligence component") engaged in "Intelligence Activities," the Draft Report obviously regards those activities as something that *can be done* by an entity that is not an "intelligence component." The Draft Report thus appears to define "Intelligence Activities" as "the collection, production, and dissemination of foreign intelligence and counterintelligence" simply, regardless of by whom or what.

(U) This re-definition not only is incorrect on its face but in practice would lead to absurd results, as reference to the definition of "foreign intelligence" demonstrates. The term "foreign intelligence" appears in the definition of "Intelligence Activities," i.e., the "collection, production, and dissemination of foreign intelligence and counterintelligence by DoD intelligence components authorized under" E.O. 12333. Both E.O. 12333 (Section 3.4(d)) and DoD Directive 5240.1 (Section 3.2) define "Foreign intelligence" as "information relating to the capabilities, intentions and activities of foreign powers,

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organizations or persons, but not including counterintelligence except for information on international terrorist activities."

(U) This definition of "foreign intelligence" is quite broad. The *New York Times*, for example, routinely engages in the collection (gathering and reporting), production (writing and editing) and dissemination (publication) of information relating to the "capabilities, intentions and activities of foreign powers, organizations or persons." In the same vein, State Department Foreign Service officers, stationed both abroad and in Washington, constantly, through their contacts with foreign officials and others, learn about the "capabilities, intentions, and activities of foreign powers, organizations, or persons"; they report this information, which is used by the regional and other bureaus of the State Department to produce memoranda containing assessments and policy recommendations, which, in turn, are disseminated to officials throughout the government. Thus, if one were to accept the Draft Report's modification of the definition of "intelligence activities," one would have to conclude that the *New York Times* and State Department Foreign Service officers routinely engage in "intelligence activities."

(U) Similarly, OUSD(P) routinely deals with "information relating to the capabilities, intentions, and activities of foreign powers, organizations, or persons." For example:

- (U) Policy personnel routinely meet with foreign counterparts, at both the leadership and desk officer levels. These encounters occur at international meetings and conferences, formal defense bi-lateral consultations, and formal or informal one-on-one meetings. During such meetings, policy personnel acquire "foreign intelligence" information which is typically recorded in Memoranda for the Record, e-mails, etc.
- (U) In addition, policy personnel seek out other sources of information about "the capabilities, intentions, and activities of foreign powers, organizations, or persons," for example, by attending academic or other conferences, or by talking to knowledgeable academics or other non-government experts on relevant subjects.
- (U) On the basis of this information and other sources (including "open source" intelligence, diplomatic reporting, as well as intelligence reports), Policy personnel prepare memoranda containing their analyses of foreign situations and associated policy recommendations. Almost all the work of regional offices, and much of the work of functional offices, deals with "the capabilities, intentions, and activities of foreign powers, organizations, or persons."
- (U) These memoranda are disseminated within OUSD(P), to the Joint Staff and other DoD components, to the Defense Department leadership and to interagency colleagues.

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(U) If this and similar activity were to be considered "Intelligence Activities," then attempting to follow the Draft Report's recommendation that "internal controls" be established to ensure that "Intelligence Activities" are not performed within OUSD(P) would be tantamount to shutting down OUSD(P) altogether.

(U) In fact, the guidance and authorities discussed here and in the Draft Report impose no restrictions on activities involving analyses, evaluations, assessments, critical reviews, or even alternative judgments by non-IC offices, not even if the subject of such analyses, etc. is intelligence reporting or intelligence products furnished by the IC, nor even if such analyses, etc. lead to judgments about intelligence information furnished by the IC that differ from the IC's judgments about the same information.

(U) Where the relevant guidance intends to prohibit or regulate activities by non-IC offices, it does so in clear terms, and in only two instances: the prohibition on engaging or conspiring to engage in assassination (E.O. 12333, Section 2.11; DoD Directive No. 5240.1, Section 4.4); and the prohibition on all DoD Components from conducting or providing support for the conduct of special activities except as the Directive otherwise provides (DoD Directive No. 5240.1 Section 4.3). Other than these two cases, the relevant guidance does not proscribe any activities by non-IC offices. In particular it lacks any limitation on analyses or assessments by Policy offices of Intelligence Community information and products. There is no basis for characterizing the admittedly lawful and authorized work under review as "inappropriate."

VI. OUSD(P) NONCONCURRENCE (U)

A. With the Findings of the Draft Report (U)

(U) For all the reasons stated in these comments, OUSD(P) does not concur in any finding expressed in the Draft Report except the finding that the activities reviewed were lawful and authorized, and specifically does not concur in incorrect assertions (e.g., at pages 4 and 14):

- (U) That OUSD(P) "developed, produced and then disseminated alternative intelligence assessments on the Iraq and al-Qaida relationship, which were inconsistent with the consensus of the Intelligence Community, to senior decision-makers";
- (U) That the actions reviewed were allegedly "OUSD(P)" activities;
- (U) That the actions reviewed were allegedly "inappropriate given that the products did not clearly show the variance with the consensus of the Intelligence Community and were, in some cases, shown as intelligence products";

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- (U) That there was an alleged "expanded role and mission of the OUSD(P) from Defense Policy formulation to alternative intelligence analysis and dissemination";
- (U) That anything inappropriate occurred because "OUSD(P) lacked the management controls to ensure that Intelligence Activities were not performed, and that when Policy disagreed with the Intelligence Community, products produced by Policy clearly showed the variance with the Intelligence Community";
- (U) That OUSD(P) had a responsibility to, but "did not provide 'the most accurate analysis of intelligence' to senior decision-makers"; and
- (U) That any OUSD(P) activities, in response to requests by the Deputy Secretary, the Secretary of Defense or otherwise, constituted "Intelligence Activities."

B. With the Recommendations of the Draft Report (U)

(U) For all the reasons stated in these comments, OUSD(P) does not concur in any recommendation expressed in the Draft Report, and specifically **does not concur** in the recommendations (page 14) that the Under Secretary of Defense for Policy:

"a. Establish internal controls so that 'Intelligence Activities' are not performed within the Office of the Under Secretary of Defense for Policy" – as OUSD(P) did not perform any "Intelligence Activities" and no such "internal controls" are needed.

"b. If in its policy formulation role, there is disagreement with the Intelligence Community consensus:

"(1.) Use existing procedures within the Intelligence Community to request an Alternative Judgment" – as existing IC procedures for producing "alternative judgments" do not apply to non-IC offices and are irrelevant to critiques by policy offices of IC work.

"(2.) Clearly articulate in policy products the Intelligence Community consensus and the basis for disagreement or variance from the Intelligence Community consensus" – as such a requirement would inappropriately constrain policy work by requiring policy offices to vet every policy product with the IC in order to determine whether or not it disagreed or varied with an IC "consensus" and – if it did -- to articulate the IC "consensus" in the policy product.

(U) Accordingly, OUSD(P) has taken no actions, and plans none, in response to the proposed recommendations.

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VII. CONCLUSION (U)

(U) Bipartisan reports and studies by various commissions and congressional committees since the 9/11 attacks have stressed the need for hard questions and alternative thinking on the part of the Intelligence and Policy Communities alike. The motivation behind such observations has been a broadly held consensus that the Intelligence Community suffered major failures in its assessments of several key threats and issues before both the 9/11 attacks and the recent Iraq war. As the WMD Commission wrote, to quote just one such report:

“We conclude that good-faith efforts by intelligence consumers to understand the bases for analytic judgments ... are entirely legitimate. This is the case even if policymakers raise questions because they do not like the conclusions or are seeking evidence to support policy preferences. Those who must use intelligence are entitled to insist that they be fully informed as to both the evidence and the analysis.”⁵³

(U) The conclusions in the Draft Report reflect a disturbing departure from the trend in all these reports and studies to encourage the type of alternative thinking that motivated the work reviewed in this Project. By mischaracterizing that work as inappropriate “intelligence assessments,” the Draft Report fundamentally misinterprets what the work actually was – namely, a critical assessment by OSD, for policy purposes, of IC reporting and finished IC products on contacts between Iraq and al-Qaida. Such conclusions, if sustained, would have a dampening effect on future initiatives challenging intelligence assessments. The facts do not justify such conclusions.

(U) The work found “inappropriate” was an exercise in alternative thinking that the second most senior civilian in this Department directed his subordinates to prepare and brief to the most senior official of this Department. The latter, after receiving the draft briefing, directed that it be shared with the DCI. When the Deputy National Security Advisor requested the briefing, the Deputy Secretary’s office directed that it be given to him. These are the activities that the Draft Report characterizes as “inappropriate,” because it considers them to be “production” and “dissemination” of an “alternative intelligence assessment” contradicting assessments of the “chartered-intelligence community.” If the OIG actually believes that it was inappropriate for the Deputy Secretary of Defense to have some non-IC OSD staff members do a critical assessment of some IC work on a subject of major significance for national security, inappropriate for the Secretary of Defense to share the OSD work with the DCI, and inappropriate for the Deputy Secretary to share the work with the Deputy National Security Advisor when requested by the latter, the OIG should say so directly instead of

⁵³ (U) *Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction, Report to the President of the United States* (31 March 2005), p. 189.

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finding fault with subordinate OSD offices and staff members who did as they were instructed to do.

(U) The proposed recommendations would put a straightjacket on not only the type of work reviewed here but also the large majority of work routinely done in OSD, particularly in OUSD(P).

- (U) By having OUSD(P) to articulate the Intelligence Community consensus in any policy products that may vary from an IC "consensus" and the basis for such variance, the proposed recommendations would inappropriately constrain policy work. They would require policy offices to vet every policy recommendation or analysis with the IC in order to determine whether or not it disagreed or varied with an IC "consensus." The proposed recommendations would also burden policy offices with a requirement to articulate the IC "consensus" when the IC itself should do so.
- (U) By having OUSD(P) to seek an "Alternative Judgment" from the IC whenever any OUSD(P) product disagreed with IC views, the proposed recommendations would seriously constrain and deter OUSD(P) personnel from articulating alternative views about the same information on which the IC's assessments were based.
- (U) By mischaracterizing alternative reviews of IC work as "Intelligence Activities," the conclusions of the Draft Report would chill the vigorous debate and hard questioning that most observers have recognized as necessary to avoid the types of intelligence failures experienced in the recent past.

(U) We strongly urge a reconsideration and major revision of the Draft Report and the conclusions expressed therein.



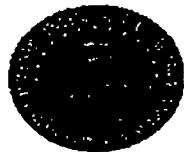
Eric S. Edelman
Under Secretary of Defense for Policy

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APPENDIX A: DI POLICY NOS. 004 AND 005

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Alternative Analysis Policy

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Directorate for Analysis and Production
Policy Statement

DI Policy No: 004 - Date: 13 July 2001

Subject: Alternative Analysis Policy

1. To remain relevant, intelligence analysis must present clear conclusions that are actionable by the customer. To be comprehensive, intelligence analysis must bring to bear the best collaborative effort of the broadest set of expertise. These competing imperatives pose a dynamic, continuing challenge to intelligence analysis.
2. The normal process of coordination demands that analysts work with others possessing relevant expertise to develop consensus analysis. Often, this process produces compromises employing such techniques as numerical ranges (10-30 missiles) or ambiguous word choices (possible, probable, may, could). Where compromises represent simple shades of difference, this outcome is acceptable; where they mask genuine analytic alternatives, they do the customer a disservice.
3. This alternative analysis policy encourages analysts to avoid those compromises which pass analytic uncertainty along to the customer in the guise of authoritative analysis. Analysts must clearly and concisely present what they know, what they do not know (and therefore assume), and then what they think (analysis). Genuine analytic differences, based on different evidence, assumptions, or methodologies, must be brought to the customer's attention in a plain and succinct manner. Our customers understand that our work is fraught with uncertainty, and they appreciate our nuanced attempts to explain what our differences are, and why they occur. Analysts are encouraged to resolve analytic differences by presenting alternative analysis within their products.
4. The need to promote sound alternative analysis does not absolve the analyst from the requirement to collaborate. Rather, it frees the analyst from the need to resort to compromise just to reach a conclusion.

///SIGNED///
CARYN A. WAGNER
Deputy Director for
Analysis and
Production

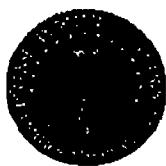
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Alternative Judgments Policy

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Directorate for Analysis and Production
Policy Statement

DI Policy No: 005 - Date: 05 June, 2001

SUBJECT: Alternative Judgments Policy

1. Curiosity and integrity are the hallmarks of good analysis. The best analysts constantly strive to explain the apparently inexplicable, while submitting their work to the rigorous scrutiny of their peers. The principal goal of intelligence analysis is to provide our customers with the most expert, fused, and multi-disciplinary judgments possible. Intellectual honesty and analytic rigor require processes that enable the analyst to present ideas and concepts which run counter to the prevailing wisdom or challenge the consensus. This policy memo establishes a process for promulgating alternative judgments, consonant with the rights and responsibilities of all analysts in their obligation to provide the best possible analysis.

2. The first and preferred method for incorporating an analytic alternative is through the standard process of coordination. Analysts are expected to marshal their facts, build coherent arguments, and defend those arguments while coordinating with other experts across the Intelligence Community. In the vast majority of cases, analytic judgments either stand or fall on the merits of their evidentiary base, intrinsic logic and quality. In those rare instances where analysts build a strong case, but cannot achieve consensus support for their analysis, an alternative judgment is justified.

3. Even with the existing venues for collaboration, there remain opportunities for the exclusion of analytic alternatives. Due to bureaucratic realities, the demands of time-sensitive taskings, or the unwillingness to accept contrary opinions, sound alternative judgments may be lost to the customer. To ensure there is an institutional court-of-last-resort for such analysis, this policy memo establishes the following procedure for raising alternative analytic judgments and giving them due consideration:

- Analysts who have presented analytic judgments through normal coordination, but whose judgments have been rebuffed, can produce an Alternative Judgment (AJ) to inform the senior leadership. The purpose of the AJ is to provide visibility to the senior leadership of an alternative judgment. Analysts who produce an AJ do so secure in the knowledge that they have improved the prevailing analysis and reinforced the collaborative process.
- The analyst has several responsibilities in the decision to produce an AJ. First the analyst must permit the coordination process to play out; an AJ may not be used to circumvent normal coordination. Second, the AJ must dispassionately (and succinctly) explain both the prevailing judgment and the alternative, without prejudice to the former. Finally, the analyst must display trust in the senior leadership, both to give submitted AJs due consideration for further dissemination, and to protect the analyst's best interests once they have produced an AJ.
- The AJ must adhere to the stated format (Enclosure 1). This format forces the analyst to focus on the substance of the prevailing and alternative judgments, while avoiding the emotional or

<http://www.dia.ic.gov/admin/di/policies/policy/005.html>

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Alternative Judgments Policy

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bureaucratic conditions which engendered the need for an AJ in the first place. In the end, the AJ is all about the analysis. Upon completing the AJ, the analyst forwards it through the immediate Supervisor/Office Senior Intelligence Officer (SIO) to the Group SIO/Research Director (RD). The Supervisor/Office SIOs review the AJ for format and completeness. The Group SIO/RD reviews the AJ to ensure it accurately describes the competing analyses.

- The Group SIO/RD then determines whether to: (1) present the AJ to the Directorate's Senior Analytic Review Board (SARB), or (2) return the AJ as not warranting further dissemination due to insufficient, non-responsive, or unsubstantiated analysis. In the event the Group SIO/RD rejects the AJ, he/she will return it to the analyst providing written explanation for the rejection; he/she will also provide a copy of the AJ and the basis for the rejection to the Directorate Research Director (DI-RD).
 - The DI-RD will convene a panel of the Group SIOs/RDs to consider an AJ selected for presentation by the appropriate Group SIO/RD. The SARB will determine whether to (1) return the AJ (due to insufficiency, as above) to the originating analyst, or (2) ratify the AJ for inclusion in all appropriate products. The SARB will work in an expedited manner in order for the AJ to be included in products already in draft. The SARB will recommend a means of dissemination to the DI, who will be the final authority on how an AJ is promulgated.
4. The desired outcome of this alternative judgment process is to produce the highest quality intelligence, while ensuring that critical alternative judgments are considered. The normal collaborative process should resolve most analytic differences well before the creation of an AJ. The specific nature of the AJ format is designed to provide discipline to the process, while providing the senior leadership sufficient information to make an informed decision on the merits of the alternatives. The use of the SIOs/RDs as principal reviewers, and the oversight of the DI-RD, invigorate the senior analytic leadership in the process, while in no way replacing or circumventing the established role of the chain-of-command. The analyst retains the right to submit alternative judgments, reinforced by the knowledge of an established process to ensure fundamental fairness. All of these intended outcomes combine toward the ultimate goal of encouraging analytic rigor.

///SIGNED///
CARYN A. WAGNER
Deputy Director for
Analysis and
Production

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APPENDIX B: COMMENTS ON OIG'S ANSWERS TO SENATOR LEVIN

(U) Q. 1. As explained in our comments, it is incorrect to attribute the briefing in question to "the OUSD(P)." It is also incorrect to characterize it as an "intelligence analysis."

(U) Q. 2. The Draft Report ignores the October 2002 letter from DCI Tenet to Chairman Graham of the Senate Select Committee on Intelligence and other DCI statements to Congress, as discussed in our comments. The Draft Report hence cannot, and should not purport to, judge the extent to which the IC views as expressed in that letter (which says, *inter alia*, that "we have solid reporting of senior level contacts between Iraq and al-Qa'ida going back a decade" and "credible information indicates that Iraq and al-Qa'ida have discussed safe haven and reciprocal non-aggression") were or were not compatible with the view that there was a "mature, symbiotic" relationship between Iraq and al-Qa'ida." (Note that the briefing speaks of a "mature, symbiotic relationship" and not of the "'mature, symbiotic' cooperation" attributed to it in this answer (emphasis supplied).)

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- (U) It is misleading to say, in the second paragraph of this answer, that the CIA "later dismissed the alleged" Atta meeting, as if the CIA's later view rather than its contemporaneous view is relevant to this question. During the relevant period in 2002, the CIA never went so far as to "dismiss" the alleged meeting.
 - (U) The final sentence of the second paragraph of this answer ("Within the OUSD(P), however, the different conclusions [i.e., the alleged "higher degree of cooperation"] were 'entirely favored' over the Intelligence Community's views") has no basis within the Draft Report or otherwise.
 - (U) It is misleading, in the third paragraph of this answer, to quote the August 2002 CIA report stating that the CIA "could not document any joint operational activity between Iraq and al-Qaida." None of the work under review asserted that there had been any such activity.

(U) Q. 3. The Draft Report contains no analysis of the "underlying intelligence." Thus, the assertion that the "alternative intelligence analysis that OUSD(P) produced" was only partially supported by it is itself not supported.

- (U) There is no basis for asserting that the view that there was a "mature, symbiotic relationship" between Iraq and al-Qa'ida "was based primarily on the alleged 8-9 April 2001 meeting in Prague between Mohammed Atta and al-Ani." In fact, that view was based on a series of intelligence reports.

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- (S/NF) The Draft Report's answer to this question [REDACTED] can

have no bearing on whether statements made in 2002 were or were not supported by the (then available) underlying intelligence.

(U) Q. 6. It is misleading to describe the briefing to the Deputy Assistant to the President for National Security Affairs (which the Vice President's Chief of Staff attended, at least in part) as a "briefing to the Office of the Vice President." It is tendentious to describe the Atta slide as "previously unseen," as the slide did not previously exist. It is incorrect to assert, as this answer does, that this new slide presented the alleged Atta meeting "as fact" (page 27). Nowhere does the slide describe the meeting as "fact." To the contrary, the slide repeatedly uses phrases such as "Czech service reports that Atta visited ...," "despite press reports of conflicting information, Czech Interior Minister ... stands by previous Czech ... reporting," "Atta reportedly held meetings...," and "Atta reportedly arrives in Prague...."

Page 30
Revised

(U) Q. 7. There is no evidence that the authors of the Draft Report reviewed the available intelligence on the relevant issues. Thus, it would appear that they are not in a position to assert that the briefing in question was or was not supported by it.

- (U) It is incorrect to say that the differences between the three versions "altered the overall message presented to each audience." The Draft Report does not discuss the "overall message" of each version of the briefing and does not analyze how the "overall message" of one version relates to the "overall message" of another version.

Page 31
Revised

(U) Q. 8. The Draft Report endorses the questioner's view that the "fundamental problems" slide "undercut" the IC. The Draft Report provides no evidence that the IC was in fact "undercut" or harmed in any way⁵⁴, no explanation how this would have happened, or what effects it might have had, if any. The implication is that the IC may not be criticized at all.

(U) Q. 9. The Draft Report's affirmative answer to this question is not supported by the evidence provided, which nowhere reviews the "available intelligence."

- The Draft Report does not compare the briefing's statements with the statements by DCI Tenet in his October 7, 2002, letter to Senator Graham and other statements to Congress. For example, DCI Tenet said that "We have solid reporting of senior level contacts between Iraq and al-Qaida going back a decade."

⁵⁴ (U) The relevant dictionary definition of "undercut" is "to undermine or destroy the force, value or effectiveness of" (Webster's Ninth New Collegiate Dictionary).

Final Report
Reference

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(U) Q. 10. The last sentence of the first paragraph of this answer ("The CIA was not given advance notice or an opportunity to respond to the critique because the OSD considered it an internal OSD product") implies that somehow the OSD view was questionable or incorrect. However, the product indisputably was an internal OSD product, and there is no reason why CIA should have been informed of it, any more than OUSD(P) was informed of the DIA memos of August 9 and 14, 2002, discussed on page 9 of this Draft Report.

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TAB B

UNCLASSIFIED

**SECURITY AND DECLASSIFICATION REVIEW BY OUSD(P) OF
20 DECEMBER 2006 DRAFT OF A PROPOSED REPORT
BY THE DOD OFFICE OF INSPECTOR GENERAL
REVIEW OF PRE-IRAQI WAR ACTIVITIES OF THE OFFICE OF THE
UNDER SECRETARY OF DEFENSE FOR POLICY (U)**

PROJECT NO. D2006DINT01-0077.000¹

January 16, 2007

In response to the OIG's request that OUSD(P) conduct a security review of the above Draft Report as well as a declassification review of the information presented, below are OUSD(P)'s recommendations with respect to information that originated outside of OUSD(P). Information for which OUSD(P) is the Original Classification Authority has been declassified by the Under Secretary of Defense for Policy (USDP), as indicated below:

- p. 2, paras. 1, 2, 3, 4 and 5: declassified by USDP
- p. 3, para. 1: declassified by USDP
- p. 5, para. 3: declassified by USDP
- p. 6, paras. 1, 2 and 3: declassified by USDP
- p. 6, para. 4: declassify only with IC concurrence
- p. 7, paras. 1, 2, 3 and 4: declassify only with IC concurrence
- p. 8, para. 3: declassified by USDP
- p. 9, para. 1: declassify only with IC concurrence
- p. 9, para. 3: declassified by USDP
- p. 10, paras. 1, 2 and 3: declassify only with IC concurrence

¹ Paragraph numbers refer to *full* paragraphs in the Draft Report. Thus, p. 10, para. 1 refers to the first full paragraph on page 10, not to the concluding part of the paragraph that began on the bottom of page 9.

UNCLASSIFIED

UNCLASSIFIED

- p. 12, para. 2: declassify only with DSD concurrence
- p. 12, paras. 3, 4 and 5: declassified by USDP
- p. 25, para. 6: declassify only with IC concurrence
- p. 26, paras. 2 and 4: declassify only with IC concurrence
- p. 29, para. 3: declassify only with IC concurrence
- p. 30, para. 3: declassified by USDP
- p. 30, paras. 4 and 5: declassify only with IC concurrence
- p. 31, para. 1: declassify only with IC concurrence

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UNCLASSIFIED

Defense Intelligence Agency (U)



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DEFENSE INTELLIGENCE AGENCY

WASHINGTON, D.C. 20340-5100



JAN 19 2007

S-0017/DR

To: Office of the Deputy Inspector General for Intelligence
Inspector General of the Department of Defense
400 Army Navy Drive, Room 703
Arlington, VA 22202-4704

Subject: (U) Pre-Iraq War Activities of the Office of the Under Secretary of Defense for Policy

Reference: (U) DoD IG Draft Proposed Report, Review of Pre-Iraq War Activities of the Office of the Under Secretary of Defense for Policy, Project No. D2006DINT01-0077.000, dated 20 Dec 2006

1. (U) The Defense Intelligence Agency (DIA) reviewed the Department of Defense (DoD) Inspector General's (IG) proposed report on the subject topic. The following errors, omissions, and observations are provided for your consideration.

2. (U) DIA recommends the following changes to the reference report:

a. (U) General Comment. A typo appears in the title of JIATF-CT (Joint Intelligence Task Force - Combating Terrorism) in several passages. Globally substitute the term "Joint Intelligence Task Force - Combating Terrorism" for "Joint Intelligence Task Force ? Combating Terrorism" throughout the document.

b. (U) General Comment. The draft IG report contains fairly extensive Central Intelligence Agency (CIA) equities. If they have not done so, DoD IG must refer the draft report to CIA for review prior to a final determination of its release.

c. (U) General Comment. DIA's Foreign Dissemination Office found no classified information falling within DIA equities, with one possible exception on pages 23-24 listed below. Most of the DIA-associated portions in the report marked as classified are overtaken by events and are addressed extensively in other official documents, such as the unclassified Senate Select Committee on Intelligence (SSCI) reports and the Iraq Survey Group Final Report to the Director of Central Intelligence. The release of these portions in a published IG report would not constitute "disclosure" reasonably expected to cause identifiable damage to national security. Under the terms of Executive Order 12958 (as amended 23 March 2003), these portions cannot be classified and are, therefore, unclassified.

UPON REMOVAL OF THE ENCLOSURE,
THIS DOCUMENT BECOMES UNCLASSIFIED.

Derived from: Multiple Sources
Declassify on: 20201008

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d. (U) Page 4, Guidance section. Consider as an additional policy reference DoD Directive 2000.12 that designates responsibilities for counterterrorism analysis within DoD. The passage below is of particular interest, though it is from a Directive revision dated 18 August 2003. A comparable passage likely exists for the version of the Directive in force from 2001-2003.

(U) "Enclosure 4: E4. 1.1 Establish and operate a Joint Intelligence Task Force for Combating Terrorism (DIA/JITF-CT) to direct collection, exploitation, analysis, fusion, and dissemination of all-source intelligence in support of DoD combating terrorism operations, planning, and policy, including DoD AT requirements. The JITF-CT serves as the single national-level, all-source foreign terrorism intelligence effort within the Department of Defense. The JITF-CT is designated to serve as the central repository of all foreign terrorism-related intelligence for the Department of Defense. Military Department Secretaries and Service Chiefs shall conduct terrorism intelligence activities as a component of or in consonance with the JITF-CT."

e. (U) Page 9, para 1: Delete the word "Senior" of "Senior Intelligence" in lines 1, 3, 10, 16.
Rationale: The individual is incorrectly identified. He was a GG-13 Intelligence Analyst.

Deleted

f. (U) Page 9, para 1: Replace the term "Special Assessment" with the word "memo" so that the passage reads, "On August 9, 2002, in a memo, 'JITF-CT Commentary: Iraq and al-Qaida, Making the Case?'" Rationale: A passage incorrectly describes a JITF-CT document as a "Special Assessment," a unique and widely disseminated product in JITF-CT's product line. The document in question was an informal memo for internal consumption, which is only made clear later in the paragraph.

Modified
Page 9

g. (U) Page 17 cites as references the Phase I and Phase II SSCI reports (classified versions). However, the unclassified versions that were publicly released contemporaneously contain much of the same information.

Page 19

h. (U) Pages 23-24. The report includes a copy of Assistant Secretary of Defense for International Security Affairs (ASD/ISA) memorandum 1-02/001165-NESA, dated 24 January 2004. It consists of a series of bullets purportedly listing intelligence related to al-Qaida/Iraq links. There is no sourcing for these bullets. Information in some of the bullets is found in the unclassified versions of the cited SSCI reports. However, the origin of the information in several of them is unknown. Therefore, DIA may not have the authority to make a determination on the classification status of these items. If the DoD IG, the Under Secretary of Defense for Policy, or another element can supply the source of the bullets in question, DIA will be in a position to determine whether bulletted portion is within DIA's power to declassify, if appropriate. Alternately, with the source of the information known, DIA can refer the DoD IG to the correct authority. At this point, DIA lacks the necessary information to make a declassification determination on the memorandum.

Pages 25-26

Final Report
Reference

Deleted

- i. (U) Page 29, para 3: Delete the word "senior" in line 2. Rationale: The individual is incorrectly identified. He was a GG-13 Intelligence Analyst.
3. (U) Attached is a copy of pages 23-24, ASD/ISA memorandum I-02/001165-NESA, dated 24 January 2004, that includes marginal notes indicating the declassification findings regarding each bullet. A "U" in the margin indicates the information is known to be in the unclassified SSCI reports or in another previous official release, or is, by itself, no threat of damage to national security. There should be no DIA objection to release of those portions marked with a marginal "U." A note of "source?" in the margin indicates that the origin of the information is unknown. It is therefore uncertain whether DIA has the authority to make a determination on the classification status of these items.

I enclosure
Appendix F. ASD(ISA) Response
To DEPSECDEF Inquiry (S//NF)

Timothy C. McNeil
Timothy C. McNeil
Deputy Chief of Staff

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Appendix F. ASD(ISA) Response to Deputy Secretary of Defense Inquiry (U)

EP 4550 84 AH 25 ZIEAM
ASSISTANT SECRETARY OF DEFENSE
DOD DEFENSE PENTAGON
WASHINGTON, DC 20301-2400
INFO MEMO
1-02-001168-NESA 1000
January 24, 2002 5:03 PM

FOR: SECRETARY OF DEFENSE
FROM: Assistant Secretary of Defense, International Security Affairs
SUBJECT: [REDACTED]
[REDACTED] So far we have discovered few direct links. However, we have uncovered evidence suggesting more robust indirect links. This is not surprising given the denial and concealment strategies employed by Saddam's intelligence service.
source?
source?
source?
Indirect Links:
source? Abu Nidal Organization (ANO) headquartered in Baghdad
source? ANO has following known links to al-Qaeda:
source? Bin Laden met in January 1998 with the General Secretary of ANO. Agreed to provide financial assistance in return for unspecified assistance to al-Qaeda.

Classified by Multiple Sources
Reason: IAW FOIA
Declassify on: X6

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6

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b(6)

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(U)

Team Members

The Department of Defense Office of the Deputy Inspector General for Intelligence prepared this report. Personnel of the Department of Defense Office of Inspector General who contributed to the report are listed below.

Sheldon R. Young

[REDACTED]

b(6)