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April 6, 2006

The President
The White House
Washington, DC 20500

Dear Mr. President:

Two recent revelations raise grave new questions about whether you, the Vice President, and your top advisors have engaged in a systematic abuse of the national security classification process for political purposes. News accounts suggest that the White House both (1) leaked classified intelligence information to further its faulty case for war and (2) improperly concealed information regarding your personal knowledge of serious doubts about this intelligence. These actions appear to violate your own executive order on handling classified information and — according to a new memorandum by the Congressional Research Service — represent an unprecedented expansion of the Vice President's role in this process. I request a full accounting of White House actions and full declassification and disclosure of all documents bearing on these critical questions.

Selective Declassification of NIE and Other Iraq Intelligence

According to an article published today in the *National Journal,* the Vice President's former chief of staff, I. Lewis "Scooter" Libby, claims that you — through Vice President Cheney — authorized him to leak to the press classified information from an October 2002 National Intelligence Estimate in order to blunt criticism from former Ambassador Joe Wilson about your improper use of intelligence in the run-up to war.[1] In testimony before the grand jury investigating the White House's leak of Valerie Plame Wilson's status as a covert CIA operative, Mr. Libby reportedly testified that "the Vice President had advised [Libby] that the President had authorized [Libby] to disclose relevant portions of the NIE."[2] Mr. Libby also reportedly testified that Vice President Cheney himself "authorized him to leak classified information to a number of journalists during the run-up to war with Iraq."[3] Both claims raise serious questions.

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[1] *Libby Says Bush Authorized Leaks,* National Journal (Apr. 6, 2006).

[2] *Id.*

[3] *Id.*

First, Mr. Libby's explanation that you authorized the leaks seems to contradict other facts. Mr. Libby claimed that he consulted David Addington, then counsel to the Vice President and now his chief of staff, who advised that your leak authorization "amounted to a declassification of the document."[4] Yet according to the *National Journal*, "only three people — the President, the Vice President and [Libby] — knew that the key judgments of the NIE had been declassified." It is unclear why your leak authorization would have been concealed in this way if it was truly a declassification. In addition, on July 18, 2003, some time after Mr. Libby leaked this classified information to reporters, your Administration formally declassified portions of the NIE for public release, suggesting that the information had not been declassified until that time.

The claim that the Vice President himself declassified certain materials also raises concerns. According to a new memorandum by the Congressional Research Service, although the Vice President "appears to have some limited declassification authority," such as for information that he had classified originally, "it appears that the Vice President is not otherwise authorized to disclose or to direct or to approve the disclosure of security classified information to persons not authorized to receive it."[5] The CRS memo further indicates that there is no precedent for Vice President Cheney's alleged actions in authorizing the selective disclosure of classified information to journalists:

> [I]n reviewing the public record of published sources, no instance was found when, in the past, prior to the current administration, a Vice President authorized the disclosure of security classified information to journalists on a selective basis.[6]

If Mr. Libby's testimony is accurate, there are serious unanswered questions about what authority Vice President Cheney was operating under when he directed his staff to leak this classified information.

Improper Concealment of President's Knowledge of Intelligence Doubts

At the same time White House officials were leaking classified information about the NIE and Ms. Plame's covert identity, they were apparently also abusing the classification process in an entirely different way — by keeping the public in the dark before the 2004 election regarding warnings you personally received about the veracity of claims that Saddam Hussein was developing nuclear weapons.

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[4] *Id.*

[5] *Disclosure of Security Classified Information,* Congressional Research Service (Mar. 10, 2006).

[6] *Id.*

Two additional articles in the *National Journal* allege that in October 2002, you received a classified "President's Summary" of the National Intelligence Estimate on Iraq's weapons of mass destruction.[7] According to these articles, this document warned you explicitly that experts at the Departments of Energy and State rejected the claim that aluminum tubes intercepted on their way to Iraq were part of Saddam Hussein's nuclear program. As the *National Journal* states:

> The disclosure that Bush was informed of the DOE and State dissents is the first evidence that the president himself knew of the sharp debate within the government over the aluminum tubes during the time that he, Cheney, and other members of the Cabinet were citing the tubes as clear evidence of an Iraqi nuclear program.[8]

These warnings were particularly critical because the aluminum tubes were one of two key pieces of supposed evidence put forth to support your claim that Saddam Hussein had reconstituted his nuclear weapons program (the other being the now-discredited claim that Iraq sought uranium from Niger). These warnings were also significant because they came directly from Energy Department officials who were subject matter experts on aluminum tubes.

The allegations set forth in the *National Journal* articles contradict claims by your top advisors that you were not informed of these warnings. Then-National Security Advisor Condoleezza Rice, for example, was asked whether you knew that Energy and State Department officials had rejected the claim that the aluminum tubes were part of Saddam Hussein's nuclear program. In response, she said: "Now, if there were any doubts about the underlying intelligence to that NIE, those doubts were not communicated to the president, to the vice president, or to me."[9] As the *National Journal* story states, "contrary to Rice's statement, the president was indeed informed of such doubts when he received the October 2002 President's Summary of the NIE."[10]

Similarly, White House Communications Director Dan Bartlett suggested that you did not know of the dispute because you did not review the full NIE and "did not read footnotes in a 90-page document."[11] As the *National Journal* story explains, "[b]ecause the Bush

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[7] *What Bush Was Told About Iraq,* National Journal (Mar. 2, 2006); *Insulating Bush*, National Journal (Mar. 30, 2006).

[8] *What Bush Was Told About Iraq,* National Journal (Mar. 2, 2006).

[9] *Insulating Bush*, National Journal (Mar. 30, 2006).

[10] *Id.*

[11] *Id.*

administration was able to control what information would remain classified, however, reporters did not know that Bush had received the President's Summary."[12]

The articles further report that the White House improperly concealed this President's Summary as part of a concerted effort to avoid damaging publicity prior to the 2004 election. According to the *National Journal,* "Karl Rove, President Bush's chief political advisor, cautioned other White House aides in the summer of 2003 that Bush's 2004 re-election prospects would be severely damaged if it was publicly disclosed that he had been personally warned that a key rationale for going to war had been challenged within the administration."[13]

Mr. Rove's concern reportedly arose after a review of classified documents by Stephen Hadley, who was then Deputy National Security Advisor and has since been promoted to National Security Advisor. According to the articles, "Hadley was particularly concerned that the public might learn of a classified one-page summary of a National Intelligence Estimate, specifically written for Bush in October 2002."[14] His review concluded that President Bush "had been directly and repeatedly apprised of the deep rift within the intelligence community over whether Iraq wanted the high-strength aluminum tubes for a nuclear weapons program or for conventional weapons."[15]

The articles make clear that national security concerns had little to do with the decision not to declassify the President's Summary. As the *National Journal* reported: "after reviewing the summary and realizing it would have disclosed presidential knowledge that INR and DOE had doubts about the tubes, senior Bush officials became preoccupied with ensuring that the text of the document remained classified."[16] The result was that "the White House's damage control was largely successful, because the public did not learn until after the 2004 elections the full extent of the president's knowledge. ... The most crucial information was kept under wraps until long after Bush's re-election."[17]

If the allegations made in the *National Journal* articles are true, Mr. Rove, Mr. Hadley, and other White House officials may have violated Executive Order 12958 by keeping the President's Summary classified and withholding it from the public. The executive order provides that information may be classified only if its unauthorized disclosure "reasonably could

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[12] *Id.*

[13] *Id.*

[14] *Id.*

[15] *Id.*

[16] *Id.*

[17] *Id.*

be expected to cause damage to the national security."[18] It further requires that information "shall be declassified as soon as it no longer meets the standards for classification."[19]

In the case of the aluminum tubes, the White House already declassified the fact that experts at the Departments of Energy and State rejected the claim that the tubes were part of Saddam Hussein's nuclear program. This fact was declassified as part of the larger declassification effort relating to the October 2002 NIE. The only apparent difference between the NIE and the President's Summary is that the summary allegedly demonstrates that you were personally warned of this fact, contrary to the public proclamations by your staff.

Any attempt to keep information classified for purely political purposes is not only against the law, but contrary to our democratic tradition of open government. The executive order is explicit on this point, stating categorically that "[i]n no case shall information be classified in order to ... conceal violations of law, inefficiency, or administration error; [or] prevent embarrassment to a person, organization, or agency."[20] Yet if the allegations outlined above are true, this is exactly what your advisors have done.

Conclusion

I have written to you and your advisors on several previous occasions regarding the failure of White House officials to comply with the executive order on safeguarding classified information.[21] In particular, I have asked repeatedly why you continue to allow your chief political advisor, Karl Rove, to retain a security clearance after he discussed Valerie Plame Wilson's identity as an undercover CIA operative with columnist Robert Novak,[22] TIME reporter Matthew Cooper,[23] and others not authorized to receive this classified information. To date, I have received no response.

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[18] Executive Order 12958, as amended by Executive Order 13292, sec. 1.2(a) (Mar. 25, 2003).

[19] *Id.* at sec. 3.1(a)

[20] *Id.* at sec. 1.7(a)

[21] *See, e.g.,* Letter from Rep. Henry A. Waxman to National Security Advisor Condoleezza Rice (Jan. 14, 2004); Letter from Rep. Henry A. Waxman and Rep. John Conyers to President George W. Bush (Feb. 10, 2004); Letter from Rep. Henry A. Waxman to White House Chief of Staff Andrew Card (July 14, 2005); Letter from Rep. Henry A. Waxman to President George W. Bush (July 18, 2005); Letter from Rep. Henry A. Waxman to White House Counsel Harriet Miers (Nov. 9, 2005).

[22] *Rove Reportedly Held Phone Talk on CIA Officer,* New York Times (July 15, 2005); *Rove Confirmed Plame Indirectly, Lawyer Says,* Washington Post (July 15, 2005).

[23] Matthew Cooper, *What I Told the Grand Jury,* TIME Magazine (July 25, 2005).

The thrust of these new revelations is that you and your advisors at the White House have been engaged in a much wider and systemic effort to undermine and flout the classification provisions of your own executive order. On one hand, you and your advisors appear to have selectively released classified information in an attempt to support your case for war and blunt the criticisms of Ambassador Wilson. On the other hand, you and your advisors seem to have improperly concealed information indicating that you were warned that intelligence on Iraq's nuclear program was challenged by experts in your own Administration.

To address the new reports, I urge that you immediately provide a full accounting of your actions, as well as the actions of Vice President Cheney and other top White House advisors, relating to these claims. I also request that you declassify the President's Summary of the October 2002 NIE and all other documents bearing on these issues. Only in this way will Congress and the American people understand whether you mishandled classified information for political purposes both before and after taking the nation to war.

Sincerely,

Henry A. Waxman
Ranking Minority Member