

Bush's Uranium Lies: The Case For A Special Prosecutor That Could Lead To Impeachment

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Some have observed that the Bush Administration's claims that Iraq had weapons of mass destruction were not just good faith mistakes but actual lies. Some have even recently compared President Bush's false claims about Iraq to the Watergate scandal that led to President Nixon's resignation. See Truth And Deceit by Bob Herbert and Don't Follow the Money by Frank Rich in The New York Times, June 2, 12, 2005. Some, such as the organizations AfterDowningStreet and DemocracyRising.US, have even called for the initiation of impeachment proceedings based in part on the Downing Street Memo that revealed that according to a British intelligence official the Bush Administration prior to the war against Iraq fixed the intelligence and facts to justify the war.[\[1\]](#)

In response to press reports on the Downing Street Memo, Congressman John Conyers and 90 other Congressional Democrats in a May 5 letter to President Bush asked him if there was a coordinated effort to fix the intelligence and facts to justify the war.[\[2\]](#) Congressman Conyers and other Congressional Democrats on June 16 held an unofficial hearing concerning the Downing Street Memo that resembled an impeachment inquiry.

Although the Downing Street Memo clearly raises serious questions about President Bush's honesty about Iraq and some claim it to be a smoking gun, it pales in comparison to the public record that already exists concerning his specific claim that Iraq had sought uranium for a nuclear weapon, which he presented as a key reason to justify the war rather than wait for United Nations weapons inspectors to finish their work. When the dots in the public record are connected on that matter, including a close analysis of Congressional investigative reports and resolutions, there is a strong case that President Bush and senior members of his Administration made fraudulent claims to Congress. Since criminal statutes prohibit making fraudulent statements to Congress and obstructing its functions, the Justice Department should pursuant to its regulations appoint an outside special counsel. A specific motive for the uranium claims that the Administration made would have been to thwart the efforts of Congress and the UN to delay the start of the war. The current public record is as strong as the Starr Report that commenced the impeachment proceedings against President Clinton and is surely strong enough to require the initial appointment of a special counsel to conduct a criminal investigation. Such a special counsel investigation could then lead to impeachment proceedings, as well as expand to cover other possible fraudulent claims.

President Bush and his senior officials made five uranium claims, which along with other claims were catalogued and analyzed in the report Iraq On The Record (IR) that was prepared by the Minority Staff of the House Committee On Government Reform and released on March 16, 2004.[\[3\]](#)

Concerning the uranium claims, that report including its database states that (1) President Bush on January 20, 2003 told Congress that Iraq's disclosure to the UN (which was supposed to reveal all of Iraq's weapons of mass destruction) "failed to deal with issues which have arisen since 1998, including ... attempts to acquire uranium and the means to enrich it"; (2) President Bush on January 28, 2003 in his State of the Union Address told Congress that the "British government has learned that Saddam Hussein recently sought significant quantities of uranium from Africa"; (3) then National Security Advisor and now Secretary of State Condoleezza Rice on January 23, 2003 in an op-ed article stated that Iraq's disclosure to the UN "fail(ed) to account for or explain Iraq's efforts to get uranium from abroad"; (4) then Secretary of State Colin Powell on January 26, 2003 in a speech stated "Why is Iraq still trying to procure uranium and the special equipment needed to transform it into material for nuclear weapons?"; and (5) Secretary of Defense Donald Rumsfeld on January 29, 2003 at a press conference stated that Hussein's "regime has the design for a nuclear weapon, was working on several different methods of enriching uranium, and recently was discovered seeking significant quantities of uranium from Africa." IR pp. 13-15, and IR Database (Speaker: All; Keyword: uranium; Subject: Nuclear Capabilities; choose Show All). All five uranium statements were made within a nine-day period between January 20 and 29, 2003.

Furthermore President Bush's above two uranium claims are in documents that he submitted to Congress. President Bush's above two uranium claims are in documents that he submitted to Congress. President Bush's 2003 State of the Union Address that he gave to Congress is labeled House Document 108-1.[\[4\]](#) The report Iraq On The Record quotes the sentence concerning uranium in President Bush's State of the Union Address but the prior sentence is also important since it mentions the purpose for the uranium. As shown by the document President Bush told Congress that the UN's International Atomic Energy Agency (IAEA) confirmed in the 1990's that "Saddam Hussein had an advanced nuclear weapons development program, had a design for a nuclear weapon, and was working on five different methods of enriching uranium for a bomb. The British government has learned that Saddam Hussein recently sought significant quantities of uranium from Africa."

The statement that President Bush made to Congress on January 20, 2003 that Iraq's report to the UN "failed to deal with issues which have arisen since 1998, including ... attempts to acquire uranium and the means to enrich it" was made in a report that President Bush submitted to Congress that is labeled House Document 108-23.[\[5\]](#) After the above sentence, President Bush reported to Congress: "In short, we have not seen anything that indicates that the Iraqi regime has made a strategic decision to disarm. On the contrary, we believe that Iraq is actively working to disrupt, deny, and defeat (UN) inspection efforts." Public Law 107-243, which was the war resolution that Congress passed earlier in October 2002 authorizing President Bush to use military force in Iraq, required President Bush to submit the above report.

The report Iraq On The Record states that all of the Bush Administration's above uranium claims were misleading. IR pp. 3, 13-15. Concerning the importance of the claims the report states: "Another significant component of the Administration's nuclear claims was the assertion that Iraq had sought to import uranium from Africa. As one of few new pieces of intelligence, this claim was repeated multiple times by Administration officials as proof that Iraq had reconstituted its nuclear weapons program." IR p. 13 (emphasis added).

The report further states that the above officials (President Bush, Secretary Rumsfeld, Secretary Powell and National Security Advisor Rice) who made the uranium claims and Vice

President Richard Cheney made a total of 237 misleading statements about the threat that Iraq posed (including the above mentioned uranium claims). IR pp. ii, 3. The statements started on March 17, 2002, which was one year before the start of the war. IR pp. ii, 3. Most (161) of the misleading statements were made prior to the war while 76 misleading statements were made after the war started to justify the decision to go to war. IR pp. ii, 3-4. The 237 misleading statements covered four areas: statements that Iraq posed an urgent threat, statements about Iraq's nuclear capabilities (such as the uranium claims), statements about Iraq's chemical and biological weapons programs, and statements about Iraq's support for al Qaeda. IR p. 6. Minus the 51 misleading statements of Vice President Cheney, the other four officials who made the misleading uranium claims made a total of 186 misleading statements. IR pp. 3, 26.

As observed in Iraq On The Record, the "Administration's statements about Iraq's nuclear capabilities had a large impact on congressional and public perceptions about the threat posed by Iraq." IR p. 8. The most glaring examples of the misleading statements are the above five uranium claims, which are discussed herein.

The report Iraq On The Record states that the uranium claims were misleading because the Central Intelligence Agency had earlier expressed doubts about the claim in two memos to the White House including one addressed to then National Security Advisor Rice, and the then CIA Director George Tenet argued personally against using the claim in a telephone call to Rice's deputy, Stephen Hadley. IR pp. 14-15, and IR Database (Speaker: All; Keyword: uranium; Subject: Nuclear Capabilities; choose Show All).

In addition to Iraq On The Record, the full Senate Select Committee On Intelligence released on July 7, 2004 an investigative report entitled Report On The U.S. Intelligence Community's Prewar Intelligence Assessments On Iraq (SR).[\[6\]](#) That report cites President Bush's above two uranium statements and Secretary Powell's uranium statement, SR pp. 63-64, 66, and reveals many more details of what President Bush and his senior officials did not disclose.

President Bush and his senior officials made their uranium claims in January 2003, and the Senate report mentions that some in the American intelligence community including in the CIA had believed the uranium claim. SR pp. 47, 52, 62. Also the report states that the CIA had actually cleared two proposed presidential speeches that the White House's National Security Council (NSC) had sent to the CIA in September 2002 that contained the claims that Iraq was caught trying to purchase 500 tons of uranium and that Iraq had sought large amounts of uranium from Africa. SR pp. 49, 51. President Bush did not use the approved language publicly. SR pp. 49, 51.

The Senate report states that the British government on September 24, 2002 published a White Paper stating that "there is intelligence that Iraq has sought the supply of significant quantities of uranium from Africa." SR p. 50. The above information in British White Paper did not state that the attempt was recent.

The Senate report then reveals that a CIA analyst in September 2002 suggested to a staff member of the White House's NSC that the White House remove from a proposed speech the claim that Iraq attempted to acquire uranium from Africa. SR p. 51. According to the CIA analyst the NSC staff member responded by stating that removing the claim would leave the British "flapping in the wind." SR p. 51.

The Senate report reveals that in October 2002, the White House's NSC sent to the CIA a

draft of a speech that President Bush was to give in Cincinnati that contained the statement that Iraq had been caught attempting to purchase up to 500 tons of uranium from Africa. SR p. 55. Due to the concerns expressed by a CIA Iraq nuclear analyst, the CIA's Associate Deputy Director for Intelligence faxed a memo to the Deputy National Security Advisor (Hadley) and to the speechwriters suggesting that they remove the uranium claim from the speech because the amount was in dispute, the claim was debatable, the CIA had told Congress that the British had exaggerated the issue, and Iraq already had 500 tons of uranium in its inventory. SR pp. 55-56. (The reference to telling Congress would be to certain select intelligence committees that cannot divulge the secret information to all members of Congress).

The NSC then sent to the CIA another draft of the speech containing a revised statement that Iraq had been caught attempting to purchase substantial amounts of uranium from Africa. SR p. 56. The CIA's Associate Deputy Director believed that the NSC had not addressed the uranium information in its later draft and alerted the CIA Director (Tenet). SR p. 56. The CIA Director responded by telling the Deputy National Security Advisor (Hadley) that President Bush should not provide any facts on the issue in the speech because CIA analysts told him that the "reporting (on the uranium claim) was weak". SR p. 56. After the White House's NSC removed the claim from the speech, the CIA sent a second fax to the White House stating the "evidence (on the claim) is weak". SR p. 56. On October 7, 2002, President Bush delivered his speech in Cincinnati and kept out the uranium claim. SR p. 57.

The Senate report states that the CIA on October 11, 2002 received copies of documents that supposedly supported the claim that Iraq had a deal to obtain uranium from Africa. SR p. 58. On January 13, 2003 (which was before the first above mentioned uranium claim of January 20, 2003), the Iraq nuclear analyst for the State Department's intelligence bureau (INR) sent an e-mail to several American intelligence community analysts outlining the reasons why he believed that the document supposedly supporting the uranium deal was probably a "hoax" and a "forgery". SR p. 62.

After the State Department's intelligence bureau alerted the CIA and Defense Intelligence Agency about the problems with the documents, said agencies published assessments that, as summarized in the Senate report, stated that "Iraq may have been seeking uranium from Africa." SR pp. 77, 62, 64 (emphasis added).

Concerning the State of the Union Address of January 28, 2003, the Senate report reveals that a NSC official at the White House and a CIA official discussed the draft of that speech that the White House had sent to the CIA that stated "we know that (Hussein) has recently sought to buy uranium in Africa." SR pp. 64-65 (emphasis added). The final draft that President Bush actually gave was that the "British government has learned that Saddam Hussein recently sought significant quantities of uranium from Africa." SR p. 66 (emphasis added). Both officials stated that there was never a discussion on the credibility of the reporting. SR pp. 65-66. The stated reason for the switch from 'we' to the British was the desire to identify in the speech a source for the uranium claim that was not classified, and the British White Paper source was not classified while the American source was classified. SR pp. 65-66. However, the original draft that the White House sent apparently did not name any source for America's knowledge but merely said 'we'. There was really no need to further identify any sources. Concerning other claims against Hussein, President Bush in his speech actually used the phrase 'intelligence sources' without providing any specifics on the sources.[\[7\]](#)

Thus it might be argued that the forgotten reason why the switch was made from “we know” to the “British government has learned” was that the CIA was not really comfortable with the “we know” especially since that might include the CIA Director who had previously told the White House that the President should not make any uranium claim because CIA analysts believed it was weak. It is plausible that the CIA became comfortable with the speech only when it was changed and merely repeated what the British had stated rather than what the CIA Director knew. The CIA official had originally told the Senate committee that he had told the White House official to remove parts of the draft that contained the words “Niger” and “500 tons” because of concerns about the sources and methods but he later recanted that claim since such words were not in the draft of the speech. SR p. 65.

The Senate report also states that according to the National Intelligence Officer (NIO), on January 24, 2003 the NSC “believed the nuclear case (against Iraq) was weak” and requested additional information from the intelligence community. SR p. 240. The intelligence officer then provided the NSC with portions of the earlier October 2002 National Intelligence Estimate (NIE), which mentioned that Iraq had vigorously tried to procure uranium and which according to the intelligence officer “outlined possible uranium acquisition attempts in Niger, Somalia, and possibly the Congo.” SR p. 240. However, the NSC members would have had the NIE report for months and would have already read it. The NIE contained the opinion of the State Department’s intelligence bureau that “the claims of Iraqi pursuit of natural uranium from Africa are ... highly dubious.” SR pp. 53-54. Thus no additional information was provided that would change the weak nuclear case against Iraq concerning the uranium claim.

President Bush chairs the NSC as President, and the other key members of the NSC include the Secretary of Defense, the Secretary of State, and the National Security Advisor. Thus the very people who were claiming in January 2003 that Iraq had sought uranium were the key members of a council that believed in January 2003 that the nuclear case against Iraq was weak.

The Senate report also states that after President Bush told the American Congress on January 28, 2003 that the British had learned that Iraq had recently sought significant quantities of uranium from Africa, the American government a few days later on February 4, 2003 privately told the UN’s IAEA that it “cannot confirm (the uranium) reports”. SR pp. 67-68. On that date the American government gave the IAEA copies of documents that supposedly supported the claim that Iraq attempted to acquire the uranium. SR p. 67. On March 3, 2003, the IAEA told the American government that the documents were forgeries. SR p. 69.

After the United States on February 4, 2003 gave the IAEA the forged documents along with the warning that the uranium reports could not be confirmed, it does not appear that the Bush Administration ever again risked making the public claim that Iraq had attempted to acquire uranium from Africa. The next day on February 5 Secretary of State Powell gave a speech to the UN in which he did not make any uranium claims but as noted above he had made a uranium claim in an earlier speech on January 26, 2003. SR pp. 68, 64.

According to the presidential commission, the Commission On The Intelligence Capabilities Of The United States Regarding Weapons Of Mass Destruction and its report released on March 31, 2005 (PCR), Secretary of State Powell during meetings at the CIA to vet his UN speech was informed that there were doubts about the reporting on the Niger uranium

matter and he did not include it in his speech for that reason. PCR p. 213, note 210.[\[8\]](#) Thus the Bush Administration stopped using the uranium claim the day after the IAEA obtained possession of the forged documents that supposedly supported the claim.

Approximately two weeks after the IAEA told the Bush Administration that the documents were forgeries, the Bush Administration on March 19, 2003 commenced the war against Iraq. According to the presidential commission, the Iraq Survey Group that conducted investigations after the United States commenced the war “found no evidence that Iraq sought uranium from abroad after 1991.” PCR p. 64.

President Bush and his senior officials had a motive for their misleading uranium claims that they made in late January 2003 – they needed to maintain support for the war and to thwart efforts of Congress and the UN to delay the start of the war. Although President Bush and said officials had obtained the Congressional resolution for the war against Iraq in October 2002, they did not start the war until five months later in March 2003 and during that five months they needed to maintain support for the war resolution that Congress could have withdrawn if Congress believed that the purpose of the resolution had been accomplished. The war resolution had not been unanimous, the vote in the House had been 296 to 133, and the vote in the Senate had been 77 to 23, and the resolution had strings attached. The resolution, Public Law 107-243, Sec. 4, stated that the “President shall, at least once every 60 days, submit to Congress a report on matters relevant to this joint resolution”. One of the grounds for the war resolution was that international weapons inspectors had left Iraq in 1998 because Iraq had thwarted their efforts, and another ground was the belief of Congress that Iraq was “actively seeking a nuclear weapons capability”. As observed in Iraq On The Record, the Bush Administration’s barrage of misleading statements about Iraq’s nuclear capabilities had a “large impact on congressional and public perceptions about the threat posed by Iraq.” IR p. 8.

After Congress passed the war resolution, the UN Security Council on November 8, 2002 passed Resolution 1441 that demanded a declaration by Iraq of all its chemical, biological and nuclear weapons and programs, and which also set forth an enhanced weapons inspections regimen in Iraq that gave inspectors unrestricted access to any sites and buildings as well as the right to remove and or destroy any prohibited weapons.[\[9\]](#) The resolution stated that if Iraq provided a false declaration and did not cooperate then there could be serious consequences.

Iraq then agreed to the resolution and on November 27, 2002 allowed UN weapons inspectors to reenter Iraq, and on December 7 Iraq provided a declaration that it had no weapons of mass destruction or programs.

According to Bob Woodward’s Plan Of Attack, p. 253, in the first week of January 2003 President Bush discussed with then National Security Advisor Rice the loss of support for the war. According to Woodward the press reports of Iraqis cooperating with UN weapons inspectors by opening up buildings “infuriated” President Bush who believed in Woodward’s words that the “unanimous international consensus of the November (UN) resolution was beginning to fray.” President Bush told Rice that the “pressure isn’t holding together”. President Bush also commented about the antiwar protests in the United States and Europe.

On January 27, 2003, which was the day before President Bush gave his State of the Union Address to Congress in which he claimed that Iraq had recently sought significant quantities of uranium from Africa, the UN issued a press release stating that “it would appear that Iraq

had decided in principle to provide cooperation on substance in order to complete the disarmament task through inspection.”[\[10\]](#) Although there were some outstanding issues and questions concerning chemical and biological weapons, the press release stated regarding nuclear weapons that the UN weapons inspectors had reported that after 60 days of inspections with a total of 139 inspections at 106 locations they had found “no evidence that Iraq had revived its nuclear weapons programme” and “no prohibited nuclear activities had been identified”. The press release stated that the inspectors had investigated the claim that Iraq had sought to import uranium and that the Iraqis denied the claim but the inspectors would continue to pursue the matter.

The UN press release concluded with the UN chief nuclear weapons inspector’s statement that “With our verification system now in place, barring exceptional circumstances, and provided there is sustained proactive cooperation by Iraq, we should be able, within the next few months, to provide credible assurance that Iraq has no nuclear weapons programme. These few months would be a valuable investment in peace because they could help us avoid a war.”

In response to the fact that Iraq had allowed UN weapons inspectors to reenter Iraq and in apparent response to the same press reports that President Bush read, five members of Congress on January 7, 2003 submitted a resolution, H.Con.Res.2, which expressed the sense of Congress that Congress should repeal the war resolution in order to allow more time for the UN weapons inspections.[\[11\]](#) The new resolution contended that the threat posed by Iraq had lessened because after the war resolution was passed Iraq then “allowed international weapons inspectors to re-enter Iraq in order to identify and destroy Iraq’s weapons of mass destruction stockpiles and development capabilities.” The new resolution stated “Congress should reexamine the threat posed by Iraq, including by allowing time to review fully and accurately the findings of the international weapons inspectors”. As of February 25, 2003, seven more members of Congress signed onto the resolution as cosponsors.

The Bush White House would certainly have learned about the new resolution since, according to Woodward’s Plan of Attack, pp. 137, 171, the White House has a congressional relations office that it runs like an intelligence agency and which has 25 people who monitor everything in Congress including closed-door briefings.

Also, according to Woodward’s Plan of Attack, p. 286, in January 2003 the Bush White House “was planning a big rollout of speeches and documents to counter Saddam and the growing international antiwar movement.”

On February 5, 2003, thirty members of Congress submitted another resolution, H.J.Res.20, to actually repeal the war resolution.[\[12\]](#) Prior to the start of the war on March 19, 2003, eight more members of Congress signed onto the February 5 resolution to repeal the earlier war resolution, bringing the total to thirty-eight members of Congress who supported the repeal resolution since it had been introduced.

Thus during the nine-day period of January 20 to 29, 2003 when President Bush submitted the above reports to Congress and his senior officials made their speeches and statements about the uranium, they were facing and apparently infuriated by Iraq’s cooperation with UN Resolution 1441. More specifically, when President Bush submitted his State of The Union Address to Congress on January 28, 2003 in which he claimed that Iraq had recently sought significant quantities of uranium from Africa, he was obviously aware of the fact that the UN

had issued a press release the previous day stating that Iraq was cooperating with UN weapons inspectors and that after 60 days of inspections the weapons inspectors had found no evidence that Iraq had revived its nuclear program.

More significantly, when President Bush and his senior official made their uranium claims between January 20 and 29 there was pending the Congressional resolution of January 7 that suggested that the purpose of the war resolution had been achieved because Iraq had allowed weapons inspectors to reenter Iraq to make inspections as well as to destroy any weapons of mass destruction. As mentioned earlier, one of the grounds for the war resolution was that weapons inspectors had left Iraq in 1998 because Iraq had thwarted their efforts. Another ground was the belief of Congress that Iraq was actively seeking a nuclear weapons capability. Thus many in Congress who had voted for the war resolution might now actually claim victory and declare that Hussein had surrendered, perhaps not to an invading army but to the UN and if he flinched then he would face that army.

Thus to thwart the UN and Congressional efforts to delay the start of the war, President Bush and said officials needed to show that Iraq posed an immediate threat and that the UN weapons inspections were not working. Although they were the key members of the NSC which believed that the nuclear case against Iraq was weak, President Bush and his said senior officials in January 2003 in order to deceive the UN and Congress into believing that the nuclear case against Iraq was actually strong twisted the unconfirmed uranium reports into unquestioned evidence that would surely scare everyone. According to President Bush and his senior officials they might not have found a smoking gun but they did have evidence that Iraq had an advanced nuclear weapons development program, had a design for a nuclear weapon and just recently sought the fuel that could without further delay ignite such a weapon that would produce a mushroom cloud over America. To persuade Congress that the UN weapons inspections approach was not working, President Bush in his report to Congress, House Document 108-23, told Congress that Iraq was defeating the inspection process by not disclosing its attempts to acquire uranium, and a few days later in his State of the Union Address, House Document 108-1, he told Congress that the British had learned that Iraq had sought that uranium. The uranium claim had an impact on Congress because it was “one of few new pieces of intelligence” and the Administration offered it “as proof that Iraq had reconstituted its nuclear weapons program.” IR p. 13 (emphasis added).

President Bush and his senior officials kept using the uranium claim until a few days prior to February 4, 2003 when the American government handed over to the UN the supporting documents that were found to be forgeries and actually told the UN that the uranium reports could not be confirmed. Approximately two weeks after the UN told the American government that the documents were forgeries, President Bush on March 19, 2003 started the war rather than allow the UN weapons inspectors to finish their work.

Some have described the Bush Administration’s uranium claims as deceptive and misleading, which implies that the claims were perhaps criminal. In a statement issued January 25, 2005 involving the confirmation hearings of now Secretary of State Rice, Senator Carl Levin who is a member of the Senate Select Committee On Intelligence criticized the uranium claim that President Bush made in his 2003 State of the Union Address to Congress.[\[13\]](#) Senator Levin stated that the CIA received the original draft of the speech that asserted the purported American view that Iraq had sought uranium and that did not mention the British. A senior CIA staff member then called the NSC to repeat its concerns about the allegation. Senator Levin stated that the NSC and White House instead of removing the text from the speech “changed the text to make reference to the British

view, suggesting, of course, that the US believed the British view to be accurate.” Senator Levin stated that this was a “formula (that) was highly deceptive” since the “only reason” to say that the British learned that Iraq was seeking uranium from Africa “was to create the impression that we believed it” although “we actually did not believe” it. Senator Levin noted Secretary Rice’s above op-ed article and stated that she was “responsible for her own distortions” and that she “distorted the facts and the intelligence provided to her to help convince the American public of the need to go to war.” Senator Levin complained that no one in the Bush Administration was held accountable.

The report *Iraq On The Record* that concluded that the Bush Administration’s above uranium claims were misleading defined a statement as misleading “if it conflicted with what intelligence officials knew at the time or involved the selective use of intelligence or the failure to include essential qualifiers or caveats.” IR p. 2.

Such misleading statements can be considered actually fraudulent since legal cases hold that a statement is fraudulent if it is misleading, conveys a false impression, contains half-truths, and discloses favorable information but omits unfavorable information. The legal treatise *Corpus Juris Secundum* (Fraud, Sec. 2) states that fraud is “a generic term which embraces all the multifarious means which human ingenuity can devise and are resorted to by one individual to gain an advantage over another by false suggestions or by suppression of the truth.” That treatise also states that “(f)raudulent misrepresentation may be effected by half truths calculated to deceive; and a half truth may be more misleading than an outright lie. A representation literally true is actionable if used to create an impression substantially false, as where it is accompanied by conduct calculated to deceive or where it does not state matters which materially qualify that statement.” Fraud, Sec. 24.

The uranium claims that President Bush and his senior officials made were fraudulent statements because although some in the American intelligence community including in the CIA somewhat agreed with the British about the uranium and that “Iraq may have been seeking uranium from Africa”, SR p. 77 (emphasis added), President Bush and his senior officials did not tell the whole truth consisting of the contrary views held by prominent American intelligence officials. Nor did President Bush and his senior officials use the weak word ‘may’ but rather used much stronger and unqualified words such as when President Bush stated that the “British government has learned that Saddam Hussein recently sought significant quantities of uranium from Africa.”

Furthermore, the statements that President Bush and Secretary Rumsfeld made on January 28 and 29, 2003 that Iraq recently attempted to acquire uranium, and the statement that Secretary Powell made on January 26, 2003 that Iraq was still trying to acquire uranium were actually false in that there was no evidence that Iraq had recently sought uranium. The British White Paper did not provide any information concerning the timing of the alleged attempt. SR p. 50.

The Bush Administration’s uranium claims were not only false and fraudulent claims but were arguably actual crimes. Concerning the two uranium claims that President Bush made directly to Congress, the criminal statute 18 U.S.C., Sec. 1001(a) states that “whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully – (1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact; (2) makes any materially false, fictitious, or fraudulent statement or representation; or (3) makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent

statement or entry; shall be fined under this title or imprisoned not more than 5 years, or both.” (Emphasis added.) However, the statute does not prohibit all false and fraudulent statements to Congress but only those made under certain circumstances, such as statements involving “administrative matters ... or a document required by law, rule or regulation to be submitted to the Congress”.

The statute covers the statement that President Bush made on January 20, 2003 to Congress since that statement was made in a report that the Congressional war resolution required. The war resolution, Public Law 107-243, Sec. 4, states that the “President shall, at least once every 60 days, submit to the Congress a report on matters relevant to this joint resolution”. President Bush in his said report actually mentioned that he was making the report “(p)ursuant” to Public Law 107-243 and that he was “providing a report prepared by (his) Administration on matters relevant to that Resolution”. President Bush’s uranium claim was relevant to the part of the war resolution that expressed the belief of Congress that Iraq was “actively seeking a nuclear weapons capability”. The uranium claims buttressed that belief. President Bush’s report to Congress is labeled House Document 108-23.

The statute also covers the statement that President Bush gave on January 28, 2003 in his State of the Union Address since Article II, Section 3 of the United States constitution requires the President to give a State of the Union Address to Congress. That constitutional provision states that the President “shall from time to time give to the Congress Information of the State of the Union, and recommend to their Consideration such Measures as he shall judge necessary and expedient”. President Bush’s 2003 State of the Union Address is a document since a document according to Merriam-Webster’s Collegiate Dictionary is a “writing conveying information”. Presidents hand the State of the Union Address to the Speaker of the House and Vice President. President Bush’s 2003 State of the Union Address is labeled House Document 108-1.

President Bush’s uranium claims arguably violated Section 1001 because both claims were fraudulent and one was actually false. In his January 28 State of the Union Address President Bush stated that the attempt to acquire uranium was recent but that was a false claim since there was no evidence that the attempt was recent. President Bush’s basic uranium claims in that Address and in his January 20 report to Congress were fraudulent claims because he did not provide Congress with the whole truth. As mentioned earlier, legal cases and treatises hold that a statement is fraudulent if it is misleading or contains half-truths. As Senator Levin stated, the formula that President Bush used in his State of the Union Address was a “formula (that) was highly deceptive”. The report *Iraq On The Record* described President Bush’s uranium statements as misleading. IR pp. 13-15.

Concerning all five uranium claims that President Bush and his senior officials made, the criminal statute 18 U.S.C., Sec. 371 states: “If two or more persons conspire ... to defraud the United States ... in any manner or for any purpose, and one or more of such persons do any act to effect the object of the conspiracy, each shall be fined under this title or imprisoned not more than five years, or both.” The Supreme Court in the case of *Hammerschmidt v. United States*, 265 U.S. 182, 188 (1924) held that to “conspire to defraud the United States means primarily to cheat the government out of property or money, but it also means to interfere with or obstruct one of its lawful governmental functions by deceit, craft or trickery, or at least by means that are dishonest.” This statute does not restrict its application to documents that are required to be given to Congress nor does it require proof that the conspiracy was successful.

The Administration's five uranium claims arguably violated Section 371 because the claims had the effect of obstructing or interfering with the function of Congress to reconsider its war resolution and to allow further time for UN weapons inspections. Some claims were made directly to Congress in reports while other claims were made indirectly to Congress in public statements to counter Iraq's cooperation with UN weapons inspectors, which was the basis for the Congressional resolution that sought a delay in the start of the war. If President Bush and his senior officials had told the whole truth surrounding their uranium claims, including telling Congress what the American CIA Director told the White House, what Secretary Powell was told during meetings at the CIA, what the American government privately told the UN, and what the NSC believed, then their half-truths about the uranium or what the British believed would have lost their effect. If they had only stated that "Iraq may have been seeking uranium from Africa", then no one would have paid attention. If the whole truth had been told, Congress might have withdrawn the war resolution or delayed the start of the war to allow further UN weapons inspections, which would have shown what we now know which is that Iraq had no weapons of mass destruction nor had sought the uranium.

Of course President Bush and his senior officials will claim ignorance as a defense and that they are not accountable for their own statements. But few convictions are based on confessions but rather most convictions are based on circumstantial evidence. The public record has overwhelming circumstantial evidence concerning their knowledge of the whole truth and the reasons why they did not tell it. There is also the evidence of their pattern of misconduct consisting of their 186 misleading statements on the threat posed by Iraq. Rule 404(b) of the Federal Rules of Evidence allows the admission of evidence of other crimes, wrongs or acts for the purpose of establishing "motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident". (Emphasis added.) A few mistakes might be plausible but 186 mistakes would be absurd. So many misleading statements clearly reveal a plan of deception.

The circumstantial evidence now includes the Downing Street Memo. President Bush and his senior officials can no longer claim with any believability that they just received and analyzed the intelligence but now must explain why their British ally believed that they fixed the intelligence to justify the war.

Rather than wait to see if President Bush and his senior officials will again mislead our nation into war possibly against Iran or North Korea, it is necessary to hold them accountable now for their misleading statements that led us to war against Iraq. The public record is compelling enough to require the Justice Department to appoint an outside special counsel to commence a criminal investigation on the five fraudulent uranium claims. The Department has a regulation, 28 CFR, Sec. 600.1, under which it can appoint an outside special counsel when it has a conflict of interest.

Prior to the independent counsel law, the Nixon Administration felt enough pressure to appoint Archibald Cox as an outside special prosecutor to investigate the Watergate scandal. Prior to the reenactment of the independent counsel law under which courts appointed independent counsels such as Kenneth Starr, then Attorney General Janet Reno felt enough pressure to appoint under the above Justice Department regulation Robert Fiske as an outside special counsel to investigate the Whitewater matter. Although the independent counsel law has now expired, the Bush Justice Department felt enough pressure to appoint a current United States Attorney, Patrick Fitzgerald, as a type of special prosecutor to investigate the leak of the name of a CIA agent, who happened to be the wife

of Joseph Wilson who in an op-ed article published in The New York Times on July 6, 2003 was the first person to publicly challenge President Bush's claim that Iraq had sought uranium. See The Politics of Truth by Joseph Wilson.

The new special counsel could base an investigation on the Watergate mantra of what did the President and his top officials know and when did they know it, as well as why did they say it. Certainly any such violations of the above criminal statutes would necessitate not only a criminal prosecution by the special counsel but also impeachment proceedings by Congress.

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[1] The Downing Street Memo is available on the website of AfterDowningStreet at www.afterdowningstreet.org. See also the website of DemocracyRising.US at www.democracyrising.us/.

[2] The letter is on the website of House Judiciary Committee Democrats. Go to www.house.gov/judiciary_democrats/ and choose Latest News, May 5, 2005 Text of Letter from Democratic Members Calling on the President to Answer Questions Concerning the "Secret Downing Street memo".

[3] The report is on the website of the House Reform Committee Democrats. Go to www.democrats.reform.house.gov/ and on the right side choose Iraq On The Record, which then goes to the Database on the left, and in the comments on the right provides further access to the summary report Iraq On The Record Report (IR) referred to above.

[4] The document is on the website of the Government Printing Office. Go to www.gpo.gov/, then to GPO Access, go to A-Z Resource List, go to Congressional Documents 104th Congress forward, under Previous Congresses, go to Search, and Select 108th Congress, Choose House Documents, Search "108-1", go to #4, which shows President Bush's State of the Union Address.

[5] This document is also on the website of the Government Printing Office. Follow the same procedure as in note 4 but at the end search for "108-23", and go to #3 which is President Bush's report to Congress.

[6] The report is on the website of the Senate Select Committee On Intelligence. Go to www.intelligence.senate.gov/ and choose Report On The U.S. Intelligence Community's Prewar Intelligence Assessments On Iraq.

[7] See note 4.

[8] The report is available on the presidential commission's website. Go to www.wmd.gov/report/ and choose Part One: Chapter One Case Study: Iraq.

[9] The resolution is available on the UN's website. Go to www.un.org/, go Welcome (English), go to Search on the top row, enter "Resolution 1441", go to second listing - Links to documents S/RES/1441(2002), and enter English.

[10] The press release is on the UN's website. Go to www.un.org/News/Press/docs/2003/sc7644.doc.

[11] The resolution is available on the website of the House of Representatives. Go to www.house.gov/, then under Legislative Information go to Find a Bill or Law, Search the Thomas website, go to Legislation, Search Bills and Resolutions, under Simple Search go to Search in and enter Summary and Status Information about Bills and Resolutions, then Search for Bill Number, then Enter Search "H.Con.Res.2", then Select Congress 108th.

[12] That resolution is also available on the website of the House of Representatives. Follow the same procedure as in note 11 but at the end, Enter Search "H.J.Res.20", Select Congress 108th.

[13] That statement is available on Senator Levin's website. Go to www.levin.senate.gov/ and go to Newsroom, enter January 25, 2005 to January 25, 2005, under Issue go to All Issues, under Category go to Statements, then go to Nomination of Condoleezza Rice to be Secretary of State.

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