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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

SUNDUS SHAKER SALEH on behalf
of herself and those similarly situated,

Plaintiffs,

vs.

GEORGE W. BUSH, RICHARD B.
CHENEY, DONALD H. RUMSFELD,
CONDOLEEZZA RICE, COLIN L.
POWELL, PAUL M. WOLFOWITZ,
and DOES 1-10, inclusive,

Defendants.

CASE NO. 3:13-cv-01124 JST

**SECOND AMENDED COMPLAINT FOR
CONSPIRACY TO COMMIT
AGGRESSION; AND THE CRIME OF
AGGRESSION**

DEMAND FOR TRIAL BY JURY

CLASS ACTION

1 SUNDUS SHAKER SALEH (hereinafter “Plaintiff”) on behalf of herself
 2 and those similarly situated, alleges against Defendants (1) GEORGE W. BUSH, (2)
 3 RICHARD B. CHENEY, (3) DONALD H. RUMSFELD, (4) CONDOLEEZZA RICE,
 4 (5) COLIN L. POWELL, (6) PAUL WOLFOWITZ, and (7) DOES 1-10 (collectively,
 5 “Defendants”), as follows:

6 **NATURE OF THIS ACTION**

7 1. Defendants GEORGE W. BUSH, RICHARD B. CHENEY,
 8 DONALD H. RUMSFELD, CONDOLEEZZA RICE, COLIN L. POWELL, PAUL
 9 WOLFOWITZ, and DOES 1-10 broke the law in conspiring and committing the Crime of
 10 Aggression against the people of Iraq.

11 2. Defendants planned the war against Iraq as early as December 1997;
 12 manipulated the United States public to support the war by scaring them with images of
 13 “mushroom clouds” and conflating the Hussein regime with al-Qaeda; and broke
 14 international law by commencing the invasion without proper legal authorization.

15 3. More than sixty years ago, American prosecutors in Nuremberg,
 16 Germany convicted Nazi leaders of the crimes of conspiring and waging wars of
 17 aggression. They found the Nazis guilty of planning and waging wars that had no basis in
 18 law and which killed millions of innocents.

19 4. Plaintiff – now a single mother living as a refugee in Jordan – was
 20 an innocent civilian victim of the Iraq War. She seeks justice under the Nuremberg
 21 principles and United States law for the damages she and others like her suffered because
 22 of Defendants’ premeditated plan to invade Iraq.

23 **JURISDICTION AND VENUE**

24 5. This Court has subject matter jurisdiction over the claims and causes
 25 of action described herein pursuant to 28 U.S.C. §§ 1350, 1331 and 1332.

26 6. Venue is proper in the Northern District of California because
 27 Defendant RICE is subject to personal jurisdiction in this district, and the allegations
 28 described in this Second Amended Complaint did not take place in any one judicial

1 district. 28 U.S.C. § 1391(b)(3).

2 7. In reference to the Order of this Court, dated May 19, 2014, which
3 dismissed Plaintiff's case with leave to amend based on her failure to challenge the
4 certification of Defendants with respect made pursuant to 28 U.S.C. § 2679(d)(1) and the
5 substitution of the United States as sole defendant, Plaintiff contends the certification is
6 in error and that there is no administrative exhaustion requirement for her to bring her
7 claim:

8 (a) Plaintiff alleges that Defendants were not acting within the scope of
9 their employment and are thus outside the purview of the certification by the Attorney
10 General. Plaintiff intends to request, and shall request at her earliest opportunity, an
11 evidentiary hearing pursuant to *Osborn v. Haley*, 121 S. Ct. 881 (2007) and *Gutierrez de*
12 *Martinez v. Lamagno*, 515 U.S. 417 (1995). *See also Billings v. United States*, 57 F.3d
13 797 (9th Cir. 1995) (referencing evidence provided by Plaintiff); *McLachlan v. Bell*, 261
14 F.3d 908, 909 (9th Cir. 2001) (accepting as true the factual allegations in the complaint as
15 no evidentiary hearing was held); *Stokes v. Cross*, 327 F.3d 1210 (D.C. Cir. 2003)
16 (holding that district court should "permit limited discovery and hold evidentiary hearing
17 to resolve a material factual dispute regarding the scope of the defendant's
18 employment."); *Osborn*, 121 S. Ct. at 901 fn. 18 (noting that judges "have a greater
19 factfinding role in Westfall Act cases than they traditionally have in other immunity
20 contexts. The Act makes that inevitable.").

21 (b) The allegations in the Second Amended Complaint, if true, would
22 constitute a violation of 18 U.S.C. § 2441 (the "War Crimes Act") in that Plaintiff's
23 allegations of the Crime of Aggression committed by these Defendants would constitute
24 "willful killing," "willful[] causing great suffering or serious injury to body or health,"
25 and "extensive destruction and appropriation of property, not justified by military
26 necessity and carried out unlawfully and wantonly," considered "grave breaches" of the
27 Geneva Conventions of 1949, and actionable in a civil capacity under the War Crimes
28 Act. *In re Agent Orange Product Liability Litig*, 373 F.Supp. 2d 7, 113 (E.D.N.Y. 2005)

(finding private right of action for civil liability under War Crimes Act). Accordingly, to the extent the Westfall Act applies, Plaintiff may still pursue her claim pursuant to the statutory exception as the claim would be “a violation of a statute of the United States under which such action against an individual is otherwise authorized.” 28 U.S.C. § 2679(b)(2)(B).

8. Personal jurisdiction over Defendants is proper in this Court because Defendants are within the jurisdiction of this Court.

THE PARTIES

9. Plaintiff Sundus Shaker Saleh is a citizen of Iraq and resides in Amman, Jordan. She lived in Iraq at the inception of the Iraq War in 2003, lost her home and her property, and was forced to flee to Jordan in 2005 because of the lack of security caused by the war and the occupation that followed. She is currently supporting four dependents by herself in Jordan.

10. Defendant George W. Bush (“BUSH”) was the 43rd President of the United States from 2001 and 2009. Defendant BUSH, under his authority as Commander-in-Chief of the United States armed forces, gave the order to invade Iraq on March 19, 2003. In so ordering the invasion, and as further described in this Second Amended Complaint, Defendant BUSH joined the conspiracy and pre-existing plan initiated by Defendants CHENEY, RUMSFELD and WOLFOWITZ to use the United States armed forces to commit the crime of aggression against the people of Iraq. Upon information and belief, Defendant BUSH is a resident of Dallas, Texas.

11. Defendant Richard B. Cheney (“CHENEY”) was the 46th Vice President of the United States from 2001 to 2009, under Defendant Bush. As further described in this Second Amended Complaint, Defendant Cheney participated in a conspiracy and pre-existing plan in the late 1990s with Defendants RUMSFELD and WOLFOWITZ to use the United States armed forces to commit the crime of aggression against the people of Iraq. Upon information and belief, Defendant CHENEY is a resident of Wilson, Wyoming.

12. Defendant Donald H. Rumsfeld (“RUMSFELD”) was the 21st Secretary of Defense of the United States from 2001 to 2006, under Defendant BUSH. As further described in this Second Amended Complaint, Defendant Rumsfeld participated in a conspiracy and pre-existing plan in the late 1990s with Defendants CHENEY and WOLFOWITZ to use the United States armed forces to commit the crime of aggression against the people of Iraq. Upon information and belief, Defendant RUMSFELD is a resident of Washington DC.

13. Defendant Condoleezza Rice (“RICE”) was the 20th United States National Security Advisor from 2001 to 2005, under Defendant BUSH. As further described in this Second Amended Complaint, Defendant RICE joined the conspiracy and pre-existing plan to invade Iraq at least in August 2002, when she joined and participated in the “White House Iraq Group,” a group established by the White House in August 2002 for the sole purpose of convincing the American public that the United States had to invade Iraq. Upon information and belief, Defendant RICE is a resident of Stanford, California.

14. Defendant Paul Wolfowitz (“WOLFOWITZ”) was the 25th Deputy Secretary of Defense from 2001 to 2005, under Defendant BUSH. As further described in this Second Amended Complaint, Defendant WOLFOWITZ was the prime architect of the Iraq War and initiated a conspiracy and plan in the late 1990s with Defendants CHENEY and RUMSFELD to use the United States armed forces to commit the crime of aggression against the people of Iraq. Upon information and belief, Defendant WOLFOWITZ is a resident of Washington DC.

15. Defendants DOES One through Ten, inclusive, are previous high-ranking officials of the Bush Administration who joined in the conspiracy, or otherwise planned and executed, the pre-existing plan to invade Iraq. Plaintiff will fully name these Doe defendants following discovery into their complete identities. Does One through Ten, inclusive, are sued for damages in their individual capacity.

NUREMBERG OUTLAWED THE CRIME OF AGGRESSION:

THE “SUPREME INTERNATIONAL CRIME”

16. At the end of World War II, the United States and its allies put Nazi leaders on trial for their crimes, including crimes against humanity and war crimes. But the chief crime prosecuted against the Nazis was the **crime of aggression**: engaging in a premeditated war without lawful reason.

17. Count One of the Nuremberg indictment charged Nazi leaders with a “Common Plan or Conspiracy” to engage in “Crimes against Peace, in that the defendants planned, prepared, initiated wars of aggression, which were also wars in violation of international treaties, agreements, or assurances.”¹

18. In his opening statement to the Tribunal, Chief Counsel for the United States Robert H. Jackson stated “This Tribunal . . . represents the practical effort of four of the most mighty of nations, with the support of 17 more, to utilize international law to meet the greatest menace of our times – aggressive war.”²

19. Chief Prosecutor Jackson argued, “The Charter of this Tribunal evidences a faith that the law is not only to govern the conduct of little men, but that even rulers are, as Lord Chief Justice Coke put it to King James, ‘under God and the law.’” (*Id.*)

20. Chief Prosecutor Jackson argued, “Any resort to war – to any kind of a war – **is a resort to means that are inherently criminal**. War inevitably is a course of killings, assaults, deprivations of liberty, and destruction of property.” (Emphasis added).

21. He continued, “The very minimum legal consequence of the treaties making aggressive wars illegal is to **strip those who incite or wage them of every defense the law ever gave, and to leave war-makers subject to judgment by the usually accepted principles of the law of crimes.**” (*Id.*) (Emphasis added).

¹ See Judgment, *United States v. Goering et al.*, Int’l Military Tribunal (Oct. 1 1946), available at http://www.loc.gov/rr/frd/Military_Law/pdf/NT_Vol-I.pdf.

² Robert Jackson, Opening Statement Before the International Military Tribunal (Nov. 21, 1945), available at <http://www.roberthjackson.org/the-man/speeches-articles/speeches/speeches-by-robert-h-jackson/opening-statement-before-the-international-military-tribunal/>.

22. Chief Prosecutor Jackson recognized that the crime of aggression applied to the United States. He argued, “We must never forget that the record on which we judge these defendants today is the record on which history will judge us tomorrow. To pass these defendants a poisoned chalice is to put it to our own lips as well.” (*Id.*)

23. The International Military Tribunal at Nuremberg found Nazi leaders guilty of the crimes of conspiracy to engage in a war of aggression and the crime of aggression.³ The Tribunal stated, “The charges in the Indictment that the defendants planned and waged aggressive wars are charges of the utmost gravity. **War is essentially an evil thing.** Its consequences are not confined to the belligerent states alone, but affect the whole world.” (Emphasis added).

24. The Tribunal held, “To initiate a war of aggression, therefore, is not only an international crime; it is the **supreme international crime** differing only from other war crimes in that it contains within itself the accumulated evil of the whole.” (Emphasis added).

25. The Tribunal rejected the defendants’ argument that Adolph Hitler was solely to blame for the acts of aggression. “[T]hose who execute the plan do not avoid responsibility by showing that they acted under the direction of the man who conceived it. Hitler could not make aggressive war by himself.” (Emphasis added).

26. High-ranking Nazis, including Hermann Göring, Alfred Jodl and Wilhelm Keitel were sentenced to death for their crimes.

THE PROJECT FOR THE NEW AMERICAN CENTURY

27. In 1997, William Kristol and Robert Kagan formed a think tank in Washington DC called “The Project for the New American Century,” or “PNAC.” PNAC members included Defendants CHENEY, RUMSFELD and WOLFOWITZ.

28. PNAC adheres to a neoconservative philosophy regarding the United States’ use of its military and its role in international politics. With respect to Iraq, PNAC

³ Judgment, *United States v. Goering et al.*, Int’l Military Tribunal (Oct. 1 1946), available at http://www.loc.gov/rr/frd/Military_Law/pdf/NT_Vol-I.pdf.

1 had a larger strategic vision of expanding the United States' influence and "showing its
2 muscle in the Middle East."⁴ PNAC provided "George Bush with many of his top officials,
3 who ran and wrecked the liberation of Iraq."⁵

4 29. From 1997 to 2000, PNAC produced several documents advocating
5 the military overthrow of Saddam Hussein.⁶

6 30. In the December 1, 1997 issue of the neoconservative magazine the
7 *Weekly Standard*, Defendant WOLFOWITZ published an article, which discussed how
8 the United States should overthrow Saddam Hussein. The issue was entitled "Saddam
9 Must Go: A How-To Guide."⁷



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22 ⁴ Michael Isikoff & David Corn, *Hubris: The Inside Story of Spin, Scandal, and the Selling of the Iraq War* 78-79 (2006).

23 ⁵ George Packer, *Kindler, Gentler Neo-Cons*, *The New Yorker* (March 27, 2009),
24 available at <http://www.newyorker.com/online/blogs/georgepacker/2009/03/kinder-gentler.html>.

25 ⁶ Project for the New American Century,
26 <http://www.newamericancentury.org/iraqmideeast2000-1997.htm>; Frontline,
"Chronology: The Evolution Of THE Bush Doctrine," PBS, available at
<http://www.pbs.org/wgbh/pages/frontline/shows/iraq/etc/cron.html>.

27 ⁷ Paul Wolfowitz & Zalmay M. Khalilzad, *Overthrow Him*, *Weekly Standard*, (Dec. 1,
28 1997), available at
<http://www.weeklystandard.com/Content/Protected/Articles/000/000/008/876iiuqh.asp?page=1>.

1 31. On January 26, 1998, Defendants RUMSFELD and WOLFOWITZ
 2 signed a letter⁸ to then President William J. Clinton, requesting that the United States
 3 implement a “**strategy for removing Saddam’s regime from power**,” which included a
 4 “willingness to **undertake military action** as diplomacy is clearly failing.” Removing
 5 Saddam from power had to “become the aim of American foreign policy.” (Emphasis
 6 added). The letter further stated that the United States could not be “crippled by a
 7 misguided insistence on unanimity in the UN Security Council.”

8 32. On May 29, 1998,⁹ Defendants RUMSFELD and WOLFOWITZ
 9 signed a letter to then Speaker of the House Newt Gingrich and Senate Majority Leader
 10 Trent Lott in which they advocated that “U.S. policy should have as its explicit goal
 11 removing Saddam Hussein’s regime from power and establishing a peaceful and
 12 democratic Iraq in its place,” which included the use of “U.S. and allied military power . .
 13 . to help remove Saddam from power.”

14 33. On September 18, 1998,¹⁰ Defendant WOLFOWITZ gave testimony
 15 before the House National Security Committee on Iraq in which he stated that the United
 16 States had to “liberat[e] the Iraqi people from Saddam’s tyrannical grasp and free Iraq’s
 17 neighbors from Saddam’s murderous threats.” Defendant WOLFOWITZ advocated that
 18 the United States establish a “safe protected zone in the South” and form a provisional
 19 government that would “**control the largest oil field in Iraq**.” (Emphasis added).

20 34. Defendant WOLFOWITZ was an avid supporter and believer of
 21 other neoconservative theorists such as Laurie Mylroie, and Defendant WOLFOWITZ
 22 had been fixated on the overthrow of Saddam’s regime in Iraq since the mid-1990s.¹¹ In

23
 24 ⁸ Letter to President Clinton (Jan. 26, 1998), *available at*
<http://www.newamericancentury.org/iraqclintonletter.htm>.

25 ⁹ Letter to Newt Gingrich and Trent Lott (May 29, 1998), *available at*
<http://www.newamericancentury.org/iraqletter1998.htm>.

26 ¹⁰ Letter by Gary Schmitt regarding Paul Wolfowitz’s Statement on U.S. Policy Toward
 27 Iraq (Sept. 18, 1998), *available at*
<http://www.newamericancentury.org/iraqsep1898.htm>.

28 ¹¹ Michael Isikoff & David Corn, *Hubris: The Inside Story of Spin, Scandal, and the*
Selling of the Iraq War 68-82 (2006).

fact, in June 2001, Defendant WOLFOWITZ tried to get the CIA to reinvestigate Mylroie's theory that Iraq was involved in the 1993 World Trade Center bombings, which had been disproved by the CIA in 1996.¹²

**ONCE IN POWER, DEFENDANTS IMMEDIATELY BEGIN TO IMPLEMENT
THEIR PLAN TO INVADE IRAQ**

35. In January 2001, Defendant BUSH was sworn in as 43rd President of the United States. Defendant CHENEY was Defendant BUSH's Vice President. Defendant BUSH appointed Defendants RUMSFELD, WOLFOWITZ, RICE and POWELL to high-ranking positions within his administration.

36. On January 30, 2001, ten days after the inauguration, Defendant BUSH met with his principals of his National Security Council for the first time. According to Paul O'Neill, the first Secretary of the Treasury under Defendant BUSH, this first meeting "was about Iraq."¹³ Defendant RICE stated that with respect to the Middle East, "Iraq is destabilizing the region," in what O'Neill thought was a scripted exchange.¹⁴

37. On February 1, 2001, at the next meeting of the National Security Council, Defendant RUMSFELD remarked that the sanctions against Iraq "are fine," but that "what we really want to think about is going after Saddam. Imagine what the region would look like without Saddam and with a regime that's aligned with U.S. interests. It would change everything in the region and beyond it. It would demonstrate what U.S. policy is all about."¹⁵ In January and February of 2001, the occupation of Iraq was openly

¹² Michael Isikoff & David Corn, *Hubris: The Inside Story of Spin, Scandal, and the Selling of the Iraq War* 76 (2006); Nat'l Comm. on Terrorist Attacks upon the United States, *The 9/11 Commission Report* 71-73 (2004), available at <http://www.weeklystandard.com/Content/Protected/Articles/000/000/008/876iuiqh.asp?page=1>.

¹³ Ron Suskind, *The Price of Loyalty: George W. Bush, the White House and the Education of Paul O'Neill* 75 (2004).

¹⁴ *Id.* at 72.

¹⁵ *Id.* at 85.

discussed.¹⁶

38. O'Neill states: "There was never any rigorous talk about this sweeping idea that seemed to be driving all the specific actions. From the start, we were building the case against Hussein and looking at how we could take him out and change Iraq into a new country. And, if we did that, it would solve everything. It was all about finding *a way to do it*. That was the tone of it. The President saying, 'Fine. Go find me a way to do this.'"¹⁷

39. O'Neill, in an interview with the CBS news magazine 60 Minutes said, "From the very first instance, it was about Iraq. It was about what we can do to change this regime. *Day one, these things were laid and sealed.*"¹⁸

**DEFENDANTS USE 9/11 AS COVER TO EXECUTE THEIR PRE-EXISTING
PLAN TO INVADE IRAQ**

40. On September 11, 2001, Saudi Arabian terrorists with links to an Afghan-based group called "al-Qaeda," and headed by Osama bin Laden, hijacked four planes and committed terrorist acts against the American people.

41. According to British journalist John Kampfner, the day of the 9/11 attacks, Defendants WOLFOWITZ and RUMSFELD openly pushed for war against Iraq – despite the fact that the 9/11 hijackers were Saudi Arabian and had been based out of Afghanistan. Defendant RUMSFELD asked, "Why shouldn't we go against Iraq, not just al-Qaeda?" with Defendant WOLFOWITZ adding that Iraq was a "brittle, oppressive regime that might break easily—it was doable." Kampfner writes, "from that moment on, he and Wolfowitz used every available opportunity to press the case."¹⁹

¹⁶ 60 Minutes, "Bush Sought 'Way' to Invade Iraq?" *interview and transcript available at* <http://www.cbsnews.com/news/bush-sought-way-to-invade-iraq/>.

¹⁷ *Id.* at 86 (emphasis in original).

¹⁸ 60 Minutes, "Bush Sought 'Way' to Invade Iraq?" *interview and transcript available at* <http://www.cbsnews.com/news/bush-sought-way-to-invade-iraq/> (emphasis added).

¹⁹ Jonathan Kampfner, *Blair's Wars* 156 (2003).

42. According to Richard A. Clarke,²⁰ the former National Coordinator for Security, Infrastructure Protection and Counter-terrorism (and who worked for Presidents George H.W. Bush and William Clinton) Defendants WOLFOWITZ, RUMSFELD and BUSH sought to use 9/11 as an excuse to attack Iraq.

43. On Wednesday, September 12, 2001, the day after 9/11, Richard A. Clarke heard Defendant RUMSFELD state that the United States had to broaden its objectives by “getting Iraq.”²¹ Defendant POWELL pushed back, urging a focus on al-Qaeda. Richard A. Clarke stated, “Having been attacked by al-Qaeda, for us now to go bombing Iraq in response would be like our invading Mexico after the Japanese attacked us at Pearl Harbor.”

44. Later in the day, Richard A. Clarke heard Defendant RUMSFELD complain that there were no decent targets for bombing in Afghanistan and that the United States military should consider bombing Iraq, which, he said, had better targets. At first Richard A. Clarke thought Rumsfeld was joking. But he was serious, and Defendant BUSH did not reject out of hand the idea of attacking Iraq. Instead, Defendant BUSH noted that what the United States needed to do with Iraq was to change the government, not just hit it with more cruise missiles, as Defendant RUMSFELD had implied.

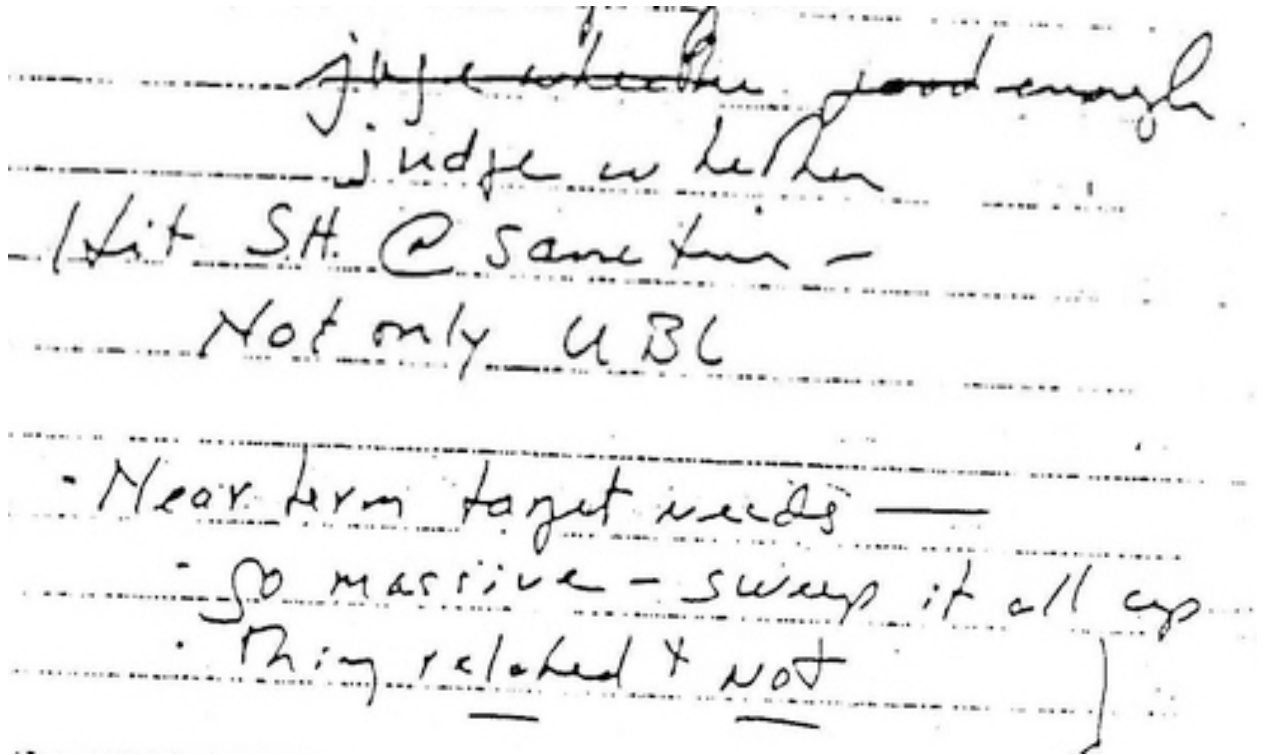
45. During the afternoon of September 11, 2001, Defendant RUMSFELD discussed with his staff the possibility of using the terrorist attacks on the World Trade Center as an “opportunity” to launch an attack on Iraq.²² On September 11, 2001, an aide to Defendant RUMSFELD quickly scribbled notes regarding the attack and

²⁰ This information is lifted from press articles and Richard A. Clarke, *Against All Enemies – Inside America’s War On Terror* (Free Press 2004).

²¹ Richard A. Clarke, *Against All Enemies*, N.Y. Times (March 28, 2004), available at <http://www.nytimes.com/2004/03/28/books/chapters/0328-1st-clarke.html?pagewanted=all>; See also Nat’l Comm. on Terrorist Attacks upon the United States, The 9/11 Commission Report 334-35 (2004).

²² Bob Woodward, *Plan of Attack* 24 (2004); See also Nat’l Comm. on Terrorist Attacks upon the United States, The 9/11 Commission Report 334-35 (2004).

1 quoted Defendant RUMSFELD as saying, “Hit S.H. @ same time – Not only UBL.” The
 2 note referred to Saddam Hussein (S.H.) and Osama bin Laden (UBL). This note also
 3 read, “Go massive - Sweep it all up. Thing [sic] related + not.”²³ (See Exhibit A,
 4 incorporated into this Second Amended Complaint hereto).

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17 46. Defendant WOLFOWITZ has stated that during the weekend after
 18 9/11, there was a “long discussion” about the part that Iraq would play in a
 19 counterterrorist strategy and the question was “about not whether but when.”²⁴

20 47. On September 12, 2001, the day after the 9/11 attacks, Defendant
 21 BUSH approached Richard A. Clarke and a few other people and stated, “I know you
 22 have a lot to do and all, but I want you, as soon as you can, to go back over everything,
 23 everything. See if Saddam did this. See if he’s linked in any way.” Richard A. Clarke was
 24 again incredulous. He responded, “But, Mr. President, Al Qaeda did this.” Defendant

25 ²³ See Joel Roberts, *Plans for Iraq Attack Began On 9/11*, CBS News (Sept. 10, 2009),
 26 available at http://www.cbsnews.com/2100-500249_162-520830.html; Thad
 27 Anderson, Flickr, available at
<http://www.flickr.com/photos/66726692@N00/sets/72057594065491946/>.

28 ²⁴ Sam Tannenhais, *Interview with Paul Wolfowitz*, Vanity Fair (May 9, 2003), available
 at <http://www.defense.gov/transcripts/transcript.aspx?transcriptid=2594>.

BUSH responded, "I know, I know, but - see if Saddam was involved. Just look. I want to know any shred-" "Absolutely, we will look-again," Richard A. Clarke answered. "But you know, we have looked several times for state sponsorship of Al Qaeda and not found any real linkages to Iraq. Iran plays a little, as does Pakistan, and Saudi Arabia, Yemen." "Look into Iraq, Saddam," Defendant BUSH responded.

48. On September 18, 2001, Clarke's office sent a memo to Defendant RICE entitled "Survey of Intelligence Information on Any Iraq Involvement in the September 11 Attacks," which found "no compelling case" that linked Iraq to the 9/11 attack.²⁵

49. On or around September 20, 2001, General Wesley Clark went to the Pentagon where he saw Defendants RUMSFELD and WOLFOWITZ. A general at the Pentagon told Wesley Clark that "We've made the decision we're going to war with Iraq." General Clark replied, "We're going to war with Iraq? Why?" The general stated, "I don't know, I guess they don't know what else to do." General Clark responded, "Well, did they find some information connecting Saddam to al-Qaeda?" The other general replied, "No, no. There's nothing new that way. They just made the decision to go to war with Iraq. I guess it's like we don't know what to do about terrorists, but we've got a good military and we can take down governments."²⁶

50. A few weeks later, after the United States had begun its bombing of Afghanistan, General Clark asked this same general, "Are we still going to war with Iraq?" The general replied, "Oh, it's worse than that." The general pointed to a memo from the office of Defendant RUMSFELD. "This is a memo that describes how we're going to take out seven countries in five years, starting with Iraq, and then Syria,

²⁵ Nat'l Comm. on Terrorist Attacks upon the United States, The 9/11 Commission Report 334 (2004).

²⁶ Amy Goodman, *Gen. Wesley Clark Weighs Presidential Bid: "I Think About It Everyday"*, Democracy Now! (March 2, 2007), available at http://www.democracynow.org/2007/3/2/gen_wesley_clark_weighs_presidential_bid.

1 Lebanon, Libya, Somalia, Sudan and, finishing off, Iran.”²⁷

2 51. During a December 9, 2001 appearance on *Meet the Press*,
 3 Defendant CHENEY attempted to falsely persuade the American public that Iraq and
 4 some connection to 9/11. Defendant CHENEY claimed it was “well confirmed that [Atta,
 5 the lead 9/11 hijacker] did go to Prague and he did meet with a senior official of the Iraqi
 6 Intelligence service.” However, this alleged meeting between Mohamed Atta and the
 7 Iraqi Intelligence service was not only unconfirmed, but the CIA and the FBI had already
 8 concluded that no such meeting had probably taken place.²⁸

9 52. On November 27, 2001, Defendant RUMSFELD met with U.S.
 10 Central Command (CENTCOM) Commander General Tommy Franks in order to discuss
 11 the “decapitation of the [Iraqi] government.” In the meeting, Defendant RUMSFELD
 12 discussed strategies on how to justify a military invasion of Iraq, which included a debate
 13 on weapons of mass destruction (WMD) and a “Saddam connection to Sept. 11
 14 attack...”²⁹ (See Exhibit B, incorporated into this Second Amended Complaint hereto).

15 53. According to Richard A. Clarke, the Bush Administration had been
 16 focused on Iraq prior to the attacks of 9/11: so focused that they failed to listen to
 17 warnings that al-Qaeda-linked terrorists were planning a spectacular attack.

18 54. For example, on January 25, 2001, four days after Defendant BUSH
 19 was inaugurated, Richard A. Clarke wrote to Defendant RICE and asked for a cabinet-
 20 level meeting to discuss the threat posed by al-Qaeda and suggesting how the United
 21 States should respond.³⁰

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 23 ²⁷ *Id.*

24 ²⁸ Michael Isikoff & David Corn, *Hubris: The Inside Story of Spin, Scandal, and the*
 25 *Selling of the Iraq War* 102-105 (2006); *Meet the Press*, Interview by Tim Russert
 26 with Dick Cheney (Dec. 9, 2001), transcript available at
[http://www.washingtonpost.com/wp-](http://www.washingtonpost.com/wp-srv/nation/specials/attacked/transcripts/cheneytext120901.html)
[srv/nation/specials/attacked/transcripts/cheneytext120901.html](http://www.washingtonpost.com/wp-srv/nation/specials/attacked/transcripts/cheneytext120901.html).

27 ²⁹ The U.S. Prepares for Conflict, 2001, available at
<http://www2.gwu.edu/~nsarchiv/NSAEBB/NSAEBB326/>.

28 ³⁰ Bush Administration’s First Memo on al-Qaeda- declassified, available at
<http://www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB147/index.htm>.

1 55. Defendant RICE downgraded Richard A. Clarke's position so that
2 he no longer had direct access to the president, a privilege he had enjoyed under President
3 Clinton.

4 56. In April 2001, Richard A. Clarke met with Defendant
5 WOLFOWITZ to discuss the threat posed by al-Qaeda. Defendant WOLFOWITZ
6 responded, "I just don't understand why we are beginning by talking about this one man
7 bin Laden." He told Richard A. Clarke, "You give bin Laden too much credit. He could
8 not do all these things like the 1993 attack on New York, not without a state sponsor. Just
9 because FBI and CIA have failed to find the linkages does not mean they don't exist."³¹

10 57. Defendant WOLFOWITZ was repeating a discredited theory that
11 Iraq had been behind the 1993 attack, which was not true.

12 58. On August 6, 2001, Defendant BUSH received a briefing from the
13 CIA entitled, "Bin Ladin [sic] Determined To Strike US."³² (See Exhibit C, incorporated
14 into this Second Amended Complaint hereto).

15 59. According to Defendant POWELL, Defendant WOLFOWITZ could
16 not justify his belief regarding a link between Iraq and the 9/11 attacks and stated,
17 "[Defendant WOLFOWITZ] was always of the view that Iraq was a problem that had to
18 be dealt with...And he saw this as one way of using this event as a way to deal with the
19 Iraq problem."³³

20 60. On June 2, 2014, Richard Clarke stated in an interview that
21 Defendants BUSH and CHENEY engaged in conduct that "probably fall within the area
22 of war crimes." He continued, "It is clear that things that the Bush administration did, in
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24

25 ³¹ Rebecca Leung, *Excerpt: Against All Enemies* (Sept. 10, 2009),
26 http://www.cbsnews.com/8301-18560_162-607774.html.

27 ³² The President's Daily Brief (Aug. 6, 2001), *available at*
<http://www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB116/index.htm>.

28 ³³ Nat'l Comm. on Terrorist Attacks upon the United States, *The 9/11 Commission Report* 335 (2004).

my mind at least it is clear, that some of the things they did were war crimes.”³⁴

**IN JULY 2002, THE BRITISH GOVERNMENT LEARNS THAT DEFENDANTS
PLAN TO INVADE IRAQ AND “FIX” INTELLIGENCE AROUND THE
INVASION**

61. In July 2002, high-ranking British politicians, including Prime Minister Tony Blair, Foreign Secretary Jack Straw and Attorney General Lord Goldsmith met to discuss intelligence on Iraq. This meeting was memorialized in a secret memorandum that has since been leaked.³⁵ (See Exhibit D, incorporated into this Second Amended Complaint hereto). During that meeting, head of Secret Intelligence Service Sir Richard Dearlove reported on his recent meetings in the United States. He stated, “There was a perceptible shift in attitude. Military action was now seen as inevitable. Bush wanted to remove Saddam, through military action, justified by the conjunction of terrorism and WMD. **But the intelligence and facts were being fixed around the policy.**” (Emphasis added).

62. The meeting went on to discuss likely American military options, including a “slow build-up of 250,000 US troops, a short (72 hour) air campaign, then a move up to Baghdad from the south.”

63. Foreign Secretary Jack Straw stated that it seemed clear that Defendant BUSH had “made up his mind” to take military action, even if the timing was not yet decided. Foreign Secretary Straw noted, “But the case was thin. Saddam was not threatening his neighbours, and his WMD capability was less than that of Libya, North Korea or Iran.”

64. The Attorney General of the United Kingdom affirmed that there was no legal justification for the war. “[T]he desire for regime change was not a legal

³⁴ Amy Goodman, *Ex-Counterterrorism Czar Richard Clarke; Bush, Cheney and Rumsfeld Committed War Crimes*, Democracy Now! (June 2, 2014) available at http://www.democracynow.org/2014/6/2/ex_counterterrorism_czar_richard_clarke_bush.

³⁵ This memo has been labeled the “Downing Street Memo” in the United Kingdom, available at <http://www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB328/II-Doc14.pdf>.

base for military action. There were three possible legal bases: self-defence, humanitarian intervention, or UN [Security Council] authorisation. The first and second could not be the base in this case. Relying on UNSCR 1205 of three years ago would be difficult. The situation might of course change.”

**DEFENDANTS EXECUTE A PLAN TO SCARE THE AMERICAN PUBLIC SO
THAT THEY CAN INVADE IRAQ**

65. In August 2002, the White House established a group called the White House Iraq Group (“WHIG”), the purpose of which was to convince the American public into supporting a war against Iraq. Defendant RICE was a member of WHIG, along with Karl Rove, I. Lewis (“Scooter”) Libby, and other high-ranking Bush Administration officials. Defendant RICE, along with other members of WHIG continually used fabricated intelligence from unreliable sources in order to prep the public for an invasion of Iraq.³⁶

66. At a September 5, 2002 WHIG meeting, the term “smoking gun/mushroom cloud” was unveiled related to the supposed nuclear dangers posed by Saddam Hussein. According to Newsweek columnist Michael Isikoff, “The original plan had been to place it in an upcoming presidential speech, but WHIG members fancied it so much that when the *Times* reporters contacted the White House to talk about their upcoming piece [about aluminum tubes], one of them leaked Gerson’s phrase – and the administration would soon make maximum use of it.”³⁷

67. On September 7, 2002 unnamed White House officials told the New York Times³⁸ that the Bush Administration was unveiling this strategy to “persuade the

³⁶ Michael Isikoff & David Corn, *Hubris: The Inside Story of Spin, Scandal, and the Selling of the Iraq War* 59 (2006).

³⁷ Michael Isikoff & David Corn, *Hubris: The Inside Story of Spin, Scandal, and the Selling of the Iraq War* 35 (2006).

³⁸ Elisabeth Bumiller, *Traces of Terror: The Strategy; Bush Aides Set Strategy to Sell Policy on Iraq*, N.Y. Times (Sept. 7, 2002), available at <http://www.nytimes.com/2002/09/07/us/traces-of-terror-the-strategy-bush-aides-set-strategy-to-sell-policy-on-iraq.html>.

1 public, the Congress and the allies of the need to confront the threat from Saddam
2 Hussein.”

3 68. The New York Times also reported that White House Chief of Staff
4 Andrew Card, Jr., explained that the Bush Administration waited until after Labor Day to
5 begin this push because “From a marketing point of view you don’t introduce new
6 products in August.”

7 69. The New York Times reported that the centerpiece of the strategy
8 would be to use Mr. Bush’s “speech on September 11 to help move Americans towards
9 support of action against Iraq, which could come early next year.”

10 70. An August 10, 2003 article in the Washington Post confirmed that
11 during this period from September 2002 to the initiation of the war, Defendants engaged
12 in a “pattern” of “depicting Iraq’s nuclear weapons program as more active, more certain
13 and more imminent in its threat than the data they had would support.”³⁹

14 71. On September 8, 2002,⁴⁰ Defendant RICE told CNN’s Late Edition
15 that Saddam Hussein was “actively pursuing a nuclear weapon.” “There will always be
16 some uncertainty about how quickly he can acquire nuclear weapons but we don’t want
17 the smoking gun to be a mushroom cloud.”

18 72. Additionally, Defendants BUSH, CHENEY, and RICE used faulty
19 intelligence and “cherry picked” intelligence facts in order to better market a war with
20 Iraq to the American people.⁴¹ For example, during an interview with *Meet the Press* on
21 September 8, 2002, Defendant CHENEY stated that the White House knew “with
22 absolute certainty” that “...[Saddam] has been seeking to acquire” aluminum tubes for
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24 ³⁹ Barton Gellman & Walter Pincus, *Depiction of Threat Outgrew Supporting Evidence*,
25 The Washington Post (Aug. 10, 2003), available at
[http://www.washingtonpost.com/wp-](http://www.washingtonpost.com/wp-dyn/content/article/2006/06/12/AR2006061200932.html)
[dyn/content/article/2006/06/12/AR2006061200932.html](http://www.washingtonpost.com/wp-dyn/content/article/2006/06/12/AR2006061200932.html).

26 ⁴⁰ CNN *Late Edition*, Interview by Wolf Blitzer with Condoleezza Rice (Sept. 8, 2002),
27 available at <http://transcripts.cnn.com/TRANSCRIPTS/0209/08/le.00.html>

28 ⁴¹ Michael Isikoff & David Corn, *Hubris: The Inside Story of Spin, Scandal, and the
Selling of the Iraq War* 16 (2006); See also *The World According to Dick Cheney*
(Cutler Productions, 2013).

his nuclear weapons program, even though there was clear dissent over this fact and overwhelming evidence that the aluminum tubes were not suitable for a nuclear centrifuge.⁴² Also, on CNN's Late Edition, Defendant RICE said the aluminum tubes "are only really suited for nuclear weapons programs, centrifuge programs." On FOX News Sunday, Defendant POWELL said that "[Saddam] is still trying to acquire...some of the specialized aluminum tubing one needs to develop centrifuges."⁴³

73. During an address at the United Nations on September 12, 2002, Defendant BUSH claimed "Iraq has made several attempts to buy high-strength aluminum tubes used to enrich uranium for a nuclear weapon."⁴⁴

74. Although the CIA had rejected the claim, Defendant BUSH declared during his weekly radio address on September 28, 2002 that Saddam "could launch a biological or chemical attack in as little as forty-five minutes."⁴⁵

75. Furthermore, after the White House had been warned that the assertion that Iraq was trying to obtain large quantities of uranium from Africa (specifically Niger) was unconfirmed and highly unlikely, Defendant BUSH used the allegation in his 2003 State of the Union address in order to justify the invasion of Iraq.⁴⁶

76. On March 7, 2003, days before the war, Mohamed ElBaradei, the

⁴² Michael Isikoff & David Corn, *Hubris: The Inside Story of Spin, Scandal, and the Selling of the Iraq War* 36-42, 86-87, 222-24, 259-60 (2006); *Meet the Press*, Interview by Tim Russert with Dick Cheney (Sept. 8, 2002), available at <https://www.mtholyoke.edu/acad/intrel/bush/meet.htm>.

⁴³ CNN *Late Edition*, Interview by Wolf Blitzer with Condoleezza Rice (Sept. 8, 2002), available at <http://transcripts.cnn.com/TRANSCRIPTS/0209/08/le.00.html>; FOX *News Sunday*, Interview by Tony Snow with Colin Powell (Sept. 8 2002), available at <http://www.foxnews.com/story/2002/10/21/transcript-colin-powell-on-fox-news-sunday/>.

⁴⁴ President Bush, Address to the United Nations General Assembly (Sept. 12, 2002), available at <http://www.un.org/webcast/ga/57/statements/020912usaE.htm>.

⁴⁵ Michael Isikoff & David Corn, *Hubris: The Inside Story of Spin, Scandal, and the Selling of the Iraq War* 100 (2006); Radio Address by the President to the Nation, Sept. 28, 2002, transcript available at <http://georgewbush-whitehouse.archives.gov/news/releases/2002/09/20020928.html>.

⁴⁶ Michael Isikoff & David Corn, *Hubris: The Inside Story of Spin, Scandal, and the Selling of the Iraq War* 86-87, 222-24, 259-260 (2006).

1 director general of the UN's nuclear inspection and verification arm the International
 2 Atomic Energy Agency (IAEA) stated that the uranium intelligence was not credible and
 3 there was "no evidence or plausible indication" that Iraq had revived a nuclear weapons
 4 program and that the documents were "not authentic."⁴⁷

5 77. On May 6, 2003, Nicholas Kristof of the New York Times reported
 6 that the C.I.A. and the State Department that the documents were forged and the
 7 information about a uranium deal "unequivocally wrong." Kristof quoted a source who
 8 said that that intelligence experts were getting "pressure to get product 'right'" and that
 9 such pressure was coming "out of the Office of the Secretary of Defense."⁴⁸

10 78. In 2008,⁴⁹ former Bush aide and press secretary Scott McClellan
 11 would write that Defendants engaged in a "political propaganda campaign" aimed at
 12 "manipulating sources of public opinion." McClellan stated that Defendants CHENEY,
 13 RUMSFELD and WOLFOWITZ "were evidently pursuing their own agendas" with
 14 respect to Iraq.⁵⁰

15 79. Defendants BUSH and RUMSFELD manipulated intelligence
 16 regarding Iraq's drones and unmanned aerial vehicles (UAV) and their ability to attack
 17 the U.S. mainland with biological or chemical weapons in order to justify an invasion in
 18 Iraq. The CIA had reported by early 2003 that it had "no definite indications that
 19 Baghdad [was] planning to use WMD-armed UAV's against the U.S. mainland."
 20 However, on February 6, 2003, Defendant BUSH still claimed an Iraqi UAV containing

21
 22 ⁴⁷ Statements of the Director General, "The Status of Nuclear Inspections in Iraq: An
 23 Update," Director General Dr. Mohamed ElBaradei, *available at*
 24 <http://www.iaea.org/newscenter/statements/2003/ebsp2003n006.shtml>.

25 ⁴⁸ Nicholas D. Kristof, *Missing in Action: Truth*, The New York Times (May 6, 2003),
 26 *available at* [http://www.nytimes.com/2003/05/06/opinion/missing-in-action-](http://www.nytimes.com/2003/05/06/opinion/missing-in-action-truth.html)
 27 [truth.html](http://www.nytimes.com/2003/05/06/opinion/missing-in-action-truth.html).

28 ⁴⁹ Scott McClellan, *What Happened: Inside the Bush White House and Washington's*
Culture of Deception, 125, 144 (2008); Michael D. Shear, *Ex-Press Aide Writes That*
Bush Misled U.S. on Iraq, The Washington Post (May 28, 2008), *available at*
[http://www.washingtonpost.com/wp-](http://www.washingtonpost.com/wp-dyn/content/article/2008/05/27/AR2008052703679.html)
[dyn/content/article/2008/05/27/AR2008052703679.html](http://www.washingtonpost.com/wp-dyn/content/article/2008/05/27/AR2008052703679.html).

⁵⁰ Scott McClellan, *What Happened* at 145.

1 biological weapons “launched from a vessel off the American coast could reach hundreds
2 of miles inland.” And during a news conference on March 12, 2003, Defendant
3 RUMSFELD declared, “We know that [Saddam] continues to hide biological or chemical
4 weapons, moving them to different locations as often as every twelve to twenty-four
5 hours.”⁵¹

6 80. In an interview given on May 9, 2003, Defendant WOLFOWITZ
7 stated, “For reasons that have a lot to do with the U.S. bureaucracy we settled on the one
8 issue [to justify the war] that everyone could agree on which was weapons of mass
9 destruction as the core reason.”⁵²

10 **DEFENDANTS FALSELY LINK AL-QAEDA TO IRAQ**

11 81. Despite the fact that there has never been any proof of any
12 operational cooperation between al-Qaeda and Iraq, Defendants engaged in a pattern and
13 practice of deceiving the American public into believing that such a link existed in order
14 to win approval for the crime of aggression against Iraq.

15 82. On December 9, 2001,⁵³ Defendant CHENEY alleged that an Iraqi
16 intelligence officer met with one of the 9/11 hijackers (Mohammed Atta) in the Czech
17 Republic. He repeated this allegation again in September 2003.⁵⁴

18 83. No such meeting took place, and in 2006, Defendant CHENEY
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20

21 ⁵¹ Michael Isikoff & David Corn, *Hubris: The Inside Story of Spin, Scandal, and the*
22 *Selling of the Iraq War* 205-206 (2006); Statement by President Bush from the White
23 House (Feb. 6, 2003), *available at* [http://georgewbush-](http://georgewbush-whitehouse.archives.gov/news/releases/2003/02/20030206-17.html)
[whitehouse.archives.gov/news/releases/2003/02/20030206-17.html](http://georgewbush-whitehouse.archives.gov/news/releases/2003/02/20030206-17.html).

24 ⁵² Sam Tannenhais, *Interview with Paul Wolfowitz*, *Vanity Fair* (May 9, 2003), *available*
25 *at* <http://www.defense.gov/transcripts/transcript.aspx?transcriptid=2594>.

26 ⁵³ *Meet the Press*, Interview by Tim Russert with Dick Cheney (December 9, 2001),
27 transcript *available at* [http://georgewbush-](http://georgewbush-whitehouse.archives.gov/vicepresident/news-speeches/speeches/print/vp20011209.html)
[whitehouse.archives.gov/vicepresident/news-](http://georgewbush-whitehouse.archives.gov/vicepresident/news-speeches/speeches/print/vp20011209.html)
[speeches/speeches/print/vp20011209.html](http://georgewbush-whitehouse.archives.gov/vicepresident/news-speeches/speeches/print/vp20011209.html).

28 ⁵⁴ *Meet the Press*, Interview by Tim Russert with Dick Cheney (Sept. 14, 2003),
transcript *available at*
<http://www.nbcnews.com/id/3080244/default.htm#.UTPUdRms1JM>.

1 retracted this statement.⁵⁵

2 84. In March 22, 2002, UK Director of the Foreign and Commonwealth
3 Office Peter Ricketts wrote a memo to Foreign Secretary Jack Straw (now publicly
4 available) and stated that the “US is scrambling to establish a link between Iraq and Al
5 Aaida [sic]” and that it was “so far frankly unconvincing.”⁵⁶ (See Exhibit E, incorporated
6 into this Second Amended Complaint).

7 85. In September 2002, Defendant RUMSFELD set up the Office of
8 Special Plans (OSP) in the Pentagon, where raw intelligence regarding Iraq would be
9 assessed and sent directly to Defendant BUSH, prior to being filtered through the proper
10 intelligence channels. Through the OSP, Defendants CHENEY, RUMSFELD, and
11 WOLFOWITZ were able to use intelligence that was uncertain, unverified, and
12 unreliable and turn it into fact.⁵⁷ The OSP was active until June 2003.

13 86. On October 7, 2002, Defendant BUSH told the American Public that
14 “Iraq and al Qaeda have had high-level contacts that go back a decade. Some al Qaeda
15 leaders who fled Afghanistan went to Iraq. These include one very senior al Qaeda leader
16 who received medical treatment in Baghdad this year, and who have been associated with
17 planning for chemical and biological attacks. We’ve learned that Iraq has trained as
18 Qaeda members in bomb-making and poisons and deadly gases. And we know that after
19 September the 11th, Saddam Hussein’s regime gleefully celebrated the terrorist attacks on
20 America.”⁵⁸

21 87. In this same speech, Defendant BUSH claimed that Saddam Hussein
22

23 ⁵⁵ *The Tony Snow Show*, Interview of Dick Cheney (March 29, 2006), transcript
24 available at [http://georgewbush-](http://georgewbush-whitehouse.archives.gov/news/releases/2006/03/20060329-2.html)
whitehouse.archives.gov/news/releases/2006/03/20060329-2.html.

25 ⁵⁶ Letter from Peter Ricketts to Jack Straw, The Downing Street Memos (March 22,
2002), available at <http://downingstreetmemo.com/rickettstext.html>.

26 ⁵⁷ Bob Woodward, *Plan of Attack* 228-229 (2004); Michael Isikoff & David Corn,
27 *Hubris: The Inside Story of Spin, Scandal, and the Selling of the Iraq War* 109 (2006).

28 ⁵⁸ President Bush, Cincinnati Museum Center Speech: Outlines Iraqi Threat (Oct. 7,
2002), available at [http://georgewbush-](http://georgewbush-whitehouse.archives.gov/news/releases/2002/10/20021007-8.html)
whitehouse.archives.gov/news/releases/2002/10/20021007-8.html.

1 had a group of “nuclear mujahaideen – his nuclear holy warriors.”

2 88. On October 14, 2002, Defendant BUSH stated that Saddam Hussein
3 “has had connections with al Qaeda. This is a man who, in my judgment, would like to
4 use al Qaeda as a forward army.”⁵⁹

5 89. Defendant BUSH made these statements despite the fact that ten
6 days after the 9/11 attacks, he was told in his daily brief (“PDB”) from the CIA that there
7 was no evidence linking Iraq to 9/11 and scant evidence that Iraq had any collaborative
8 ties with al Qaeda.⁶⁰

9 90. A Defense Intelligence Agency document from February 2002
10 confirmed that the source of the intelligence linking Iraq to al Qaeda was a likely
11 fabricator and “intentionally misleading” his interrogators.⁶¹ The report concluded,
12 “Saddam’s regime is intensely secular and is wary of Islamic revolutionary movements.
13 Moreover, Baghdad is unlikely to provide assistance to a group it cannot control.”

14 91. According to Defendant POWELL, Defendants CHENEY and
15 WOLFOWITZ feverishly looked for a connection between Saddam Hussein and 9/11. In
16 January 2003, Defendant POWELL privately referred to Doug Feith’s office as the
17 “Gestapo office,” a place where Defendant WOLFOWITZ, Scooter Libby, and Feith
18 would meet and discuss a strategy to invade Iraq.⁶²

19 92. Defendant CHENEY claimed that Iraq had “direct ties” to al-Qaeda
20 in order to convince individual members of Congress, including Representative Dick
21

22 ⁵⁹ President Bush, Thaddeus McCotter for Congress Dinner Speech (Oct. 14, 2002),
23 *available at* [http://georgewbush-](http://georgewbush-whitehouse.archives.gov/news/releases/2002/10/20021014-3.html)
[whitehouse.archives.gov/news/releases/2002/10/20021014-3.html](http://georgewbush-whitehouse.archives.gov/news/releases/2002/10/20021014-3.html).

24 ⁶⁰ Murray Waas, *Key Bush Intelligence Briefing Kept From Hill Panel*, National
25 Journal, (Nov. 2005, updated May 29, 2013),
[http://www.nationaljournal.com/whitehouse/key-bush-intelligence-briefing-kept-](http://www.nationaljournal.com/whitehouse/key-bush-intelligence-briefing-kept-from-hill-panel-20051122)
[from-hill-panel-20051122](http://www.nationaljournal.com/whitehouse/key-bush-intelligence-briefing-kept-from-hill-panel-20051122).

26 ⁶¹ Douglas Jehl, *Report Warned Bush Team Against Intelligence Doubts*, New York
27 Times, (Nov. 6, 2005), *available at*
[http://www.nytimes.com/2005/11/06/politics/06intel.ready.html?pagewanted=all&_r=](http://www.nytimes.com/2005/11/06/politics/06intel.ready.html?pagewanted=all&_r=0)
0.

28 ⁶² Bob Woodward, *Plan of Attack* 292-293 (2004).

Armev, that an invasion of Iraq was necessary.⁶³

93. During a visit to Cairo in February 2001, Defendant POWELL stated that Iraq “has not developed any significant capability with respect to weapons of mass destruction.”⁶⁴ However, in February 2003, Defendant POWELL gave a speech to the United Nations Security Council on the issue of Iraq, considered critical to winning approval for military action. In that speech, Defendant POWELL stated⁶⁵ that Iraq “harbors a deadly terrorist network headed by Abu Musab Al-Zarqawi, an associated collaborator of Osama bin Laden and his al-Qaeda lieutenants.” He stated that Saddam Hussein was “more willing to assist al-Qaida after the 1998 bombings of [US] embassies in Kenya and Tanzania.” He alleged that, “From the late 1990s until 2001, the Iraqi Embassy in Pakistan played the role of liaison to the Al Qaeda organization.” In a 2005 interview with ABC News, Defendant POWELL admitted he felt “terrible” about this speech and considered it a “blot” on his record.⁶⁶

94. When asked about a specific Iraq and al-Qaeda connection, Defendant POWELL admitted, “I have never seen a connection . . . I can’t think otherwise because I’d never seen evidence to suggest there was one.” Defendant POWELL thus admitted that the allegations given in his speech were untrue.

95. In 2003, when asked about a specific Iraq and 9/11 connection, Defendant WOLFOWITZ admitted, “I’m not sure even now that I would say Iraq had something to do with it.”⁶⁷

⁶³ The World According to Dick Cheney (Cutler Productions, 2013).

⁶⁴ Michael Isikoff & David Corn, *Hubris: The Inside Story of Spin, Scandal, and the Selling of the Iraq War* 26 (2006).

⁶⁵ Colin Powell, U.S. Secretary of State’s Address to the United Nations Security Council (Feb. 5, 2003), *available at* <http://www.guardian.co.uk/world/2003/feb/05/iraq.usa3>.

⁶⁶ ABC News, “Colin Powell on Iraq, Race, and Hurricane Relief,” Sept. 8, 2005, *available at* <http://abcnews.go.com/2020/Politics/story?id=1105979&page=1>

⁶⁷ *The Laura Ingraham Show*, Interview by Nancy Collins with Paul Wolfowitz (August 1, 2003), transcript *available at* <http://www.defense.gov/Transcripts/Transcript.aspx?TranscriptID=3208>.

DEFENDANTS REJECT ALL AVENUES FOR DIPLOMACY AND
DISSENTING INTELLIGENCE REPORTS

96. On November 26, 2002, shortly after U.N. Resolution 1441 was passed and even before the new team of UN weapons inspectors entered Iraq, Defendants RUMSFELD and BUSH approved the deployment of 300,000 American troops to the Gulf. Defendant RUMSFELD even decided to “stagger” the order in two-week intervals in order to avoid generating too much attention related to the Defendants’ pre-planned invasion of Iraq.⁶⁸

97. Although the CIA sent a memo to the White House and specifically to Defendant RICE on October 6, 2002 which warned that the claims that Saddam Hussein attempted to purchase uranium from Africa were not confirmed and lacked sufficient evidence, Defendant BUSH still claimed that “Saddam Hussein recently sought significant quantities of uranium from Africa.”⁶⁹ Moreover, Defendant RICE admitted that she failed to heed the warnings of the CIA and took “personal responsibility” for the misrepresentation.⁷⁰

98. On January 31, Defendant BUSH met with Prime Minister Blair and told Prime Minister Blair that the United States still planned to wage a war in Iraq on March 10, 2003 regardless of what happened at the United Nations or with the U.N. inspections in Iraq.⁷¹ Defendant BUSH doubted that WMD would be found during the inspections and Defendant BUSH even admitted to the possibility of provoking confrontation with Iraq in order to justify an attack by the United States.⁷²

⁶⁸ Michael Isikoff & David Corn, *Hubris: The Inside Story of Spin, Scandal, and the Selling of the Iraq War* 158 (2006).

⁶⁹ Michael Isikoff & David Corn, *Hubris: The Inside Story of Spin, Scandal, and the Selling of the Iraq War* 299-300 (2006); Carnegie Endowment for International Peace, WMD in Iraq: Evidence and Implications (Jan. 2004) 21.

⁷⁰ Michael Isikoff & David Corn, *Hubris: The Inside Story of Spin, Scandal, and the Selling of the Iraq War* 299-300 (2006).

⁷¹ Michael Isikoff & David Corn, *Hubris: The Inside Story of Spin, Scandal, and the Selling of the Iraq War* 179-180 (2006);

⁷² *Id.*

1 99. Even though the National Intelligence Estimate (NIE) concluded it
 2 was unlikely that Saddam Hussein would cooperate with terrorists and give WMD to al
 3 Qaeda, Defendants BUSH and RICE stated that Iraq had operational ties to al Qaeda and
 4 would give terrorists WMD to use against the United States.⁷³ Defendant RICE stated
 5 “[T]here clearly are contacts between Al Qaeda and Iraq...and...there’s a relationship
 6 there.”⁷⁴ Defendant BUSH stated, “Evidence...reveal[s] that Saddam Hussein aids and
 7 protects terrorists, including members of Al Qaeda...Imagine those 19 hijackers with
 8 other weapons and other plans—this time armed by Saddam Hussein.”⁷⁵

9 100. A few weeks after the UN Security Council passed Resolution 1441
 10 on November 8, 2002, Defendant BUSH called French president Jacques Chirac and
 11 attempted to persuade him to support the United States’ invasion of Iraq. After Chirac
 12 informed Defendant BUSH that he needed more concrete evidence that Iraq possessed
 13 WMD and that the UN inspectors “need more time,” Defendant BUSH stated that a U.S.
 14 invasion of Iraq is “willed by God” and that “Gog and Magog are at work in the Middle
 15 East.” Chirac was bewildered over Defendant BUSH’s statement.⁷⁶ In October 2005, a
 16 senior Palestinian politician revealed that Defendant BUSH claimed in 2003 that he was
 17 “on a mission from God” when he launched the invasion of Iraq. Nabil Shaath, then the
 18 Palestinian foreign minister, said, “President Bush said to all of us: ‘I am driven with a
 19 mission from God.’ God would tell me, ‘George go and fight these terrorists in
 20 Afghanistan’. And I did. And then God would tell me, ‘George, go and end the tyranny in
 21

22 _____
 23 ⁷³ Carnegie Endowment for International Peace, WMD in Iraq: Evidence and
 Implications (Jan. 2004) 43.

24 ⁷⁴ PBS *NewsHour with Jim Lehrer*, Interview with Condoleezza Rice (September 25,
 2002), transcript available at http://www.pbs.org/newshour/bb/international/july-dec02/rice_9-25.html.
 25

26 ⁷⁵ President Bush, State of the Union (Jan. 28, 2003), available at
<http://whitehouse.georgewbush.org/news/2003/012803-SOTU.asp>.

27 ⁷⁶ Kurt Eichenwald, *500 Days: Secrets and Lies in the Terror Wars* 458-59 (2012); see
 28 also New York Times Sunday Book Review, “Fear Factor,” available at
<http://www.nytimes.com/2012/10/07/books/review/500-days-by-kurt-eichenwald.html>.

1 Iraq.’ And I did.”⁷⁷

2 101. On November 27, 2002, the International Atomic Energy Agency
3 (IAEA) resumed inspections in Iraq. Every site which was identified in overhead satellite
4 imagery as having suspicious activity was also inspected. On March 7, 2003, the IAEA
5 Director General Mohamed ElBaradei reported to the UN Security Council that there was
6 no indication “of resumed nuclear activities,” “that Iraq has attempted to import
7 uranium,” “that Iraq has attempted to import aluminum tubes for use in centrifuge
8 enrichment.”⁷⁸

9 102. Although the Bush administration claimed that Iraq had large
10 stockpiles of chemical weapons and had covert chemical weapon production facilities,
11 UN Monitoring Verification and Inspection Commission (UNMOVIC) did not find
12 significant stockpiles nor did it find any active production facilities or evidence of hidden
13 chemical weapon production capability. Defendant POWELL stated, “There is no doubt
14 that he has chemical weapons stocks”⁷⁹ and Defendant BUSH stated, “We know that the
15 regime has produced thousands of tons of chemical agents, including mustard gas, sarin
16 nerve gas, and VX nerve gas.”⁸⁰

17 **DEFENDANTS WERE NOT ACTING WITHIN THEIR SCOPE OF**
18 **EMPLOYMENT IN PLANNING AND COMMITTING AGGRESSION**

19 103. The systematic manipulation and exaggeration of intelligence in
20 order to convince the American public that an invasion of Iraq was necessary was not the
21 kind of conduct that Defendants’ were employed to perform. Defendants were not hired,

22 ⁷⁷ Ewen MacAskill, *George Bush: ‘God told me to end the tyranny in Iraq’*, (October 6,
23 2005), *The Guardian*, available at
<http://www.theguardian.com/world/2005/oct/07/iraq.usa>.

24 ⁷⁸ Mohamed ElBaradei, *The Status of Nuclear Inspections in Iraq: An Update*, (March 7,
25 2003), available at www.iaea.org/NewsCenter/Statements/2003/ebsp2003n006.shtml
26 (accessed December 4, 2003); Carnegie Endowment for International Peace, *WMD in Iraq: Evidence and Implications* (Jan. 2004) 23-25.

27 ⁷⁹ Secretary of State Powell, Fox “News Sunday” (Sept. 8, 2002), available at
<https://www.mtholyoke.edu/acad/intrel/bush/fox.htm>.

28 ⁸⁰ President Bush, *Address on Iraq* (October 7, 2002), available at <http://georgewbush-whitehouse.archives.gov/news/releases/2002/10/20021007-8.html>.

1 *inter alia*, to falsely link al Qaeda to Iraq, which is what they did.⁸¹ For example, On
 2 October 14, 2002, Defendant BUSH stated that Saddam Hussein “has had connections
 3 with al Qaeda. This is a man who, in my judgment, would like to use al Qaeda as a
 4 forward army.”⁸² On December 9, 2001,⁸³ Defendant CHENEY alleged that an Iraqi
 5 intelligence officer met with one of the 9/11 hijackers (Mohammed Atta) in the Czech
 6 Republic. He repeated this allegation again in September 2003.⁸⁴ Through the OSP,
 7 Defendants CHENEY, RUMSFELD, and WOLFOWITZ were able to use intelligence
 8 that was uncertain, unverified, and unreliable and turn it into fact.⁸⁵ Defendant POWELL
 9 stated that Iraq “harbors a deadly terrorist network headed by Abu Musab Al-Zarqawi, an
 10 associated collaborator of Osama bin Laden and his al-Qaeda lieutenants.”⁸⁶

11 104. Defendants were not hired, *inter alia*, to scare and mislead the public
 12 by exaggerating and inflating the threat of the Iraq. For example although most of the
 13 intelligence regarding Iraq’s nuclear weapons program was unconfirmed and tainted, on
 14 September 8, 2002, Defendant RICE told CNN’s Late Edition that Saddam Hussein was
 15 “actively pursuing a nuclear weapon.” She stated, “There will always be some
 16 uncertainty about how quickly he can acquire nuclear weapons but we don’t want the
 17 smoking gun to be a mushroom cloud.”

18 105. Defendants were not hired to execute a pre-existing plan to invade

19 ⁸¹ Carnegie Endowment for International Peace, WMD in Iraq: Evidence and
 20 Implications (Jan. 2004) 48.

21 ⁸² President Bush, Remarks by the President at Thaddeus McCotter for Congress Dinner
 22 (Oct. 14, 2002), *available at* [http://georgewbush-
whitehouse.archives.gov/news/releases/2002/10/20021014-3.html](http://georgewbush-whitehouse.archives.gov/news/releases/2002/10/20021014-3.html).

23 ⁸³ *Meet the Press*, Interview by Tim Russert with Dick Cheney (Dec. 9, 2001), transcript
available at [http://georgewbush-whitehouse.archives.gov/vicepresident/news-
speeches/speeches/print/vp20011209.html](http://georgewbush-whitehouse.archives.gov/vicepresident/news-speeches/speeches/print/vp20011209.html).

24 ⁸⁴ *Meet the Press*, Interview by Tim Russert with Dick Cheney (Sept. 14, 2003),
 25 transcript *available at* <http://www.nbcnews.com/id/3080244/default.htm#.UTPUdRms1JM>.

26 ⁸⁵ Bob Woodward, *Plan of Attack* 228-229 (2004); Michael Isikoff & David Corn,
 27 *Hubris: The Inside Story of Spin, Scandal, and the Selling of the Iraq War* 109 (2006).

28 ⁸⁶ Colin Powell, U.S. Secretary of State’s Address to the United Nations Security
 Council (Feb. 5, 2003), *available at* <http://www.guardian.co.uk/world/2003/feb/05/iraq.usa3>.

another country, whatever the cost, and by using an unrelated terrorist attack as an excuse to execute their plan. “The aggressive intentions present from the beginning” and the “nature of [the] plan”⁸⁷ to invade Iraq constitutes premeditated planning and waging of a war that constitutes the crime of aggression against Iraq by the Defendants. The crime of aggression is the “supreme international crime” and thus not within the duty of high-government officials. For example, Defendant BUSH told Prime Minister Tony Blair that the United States would wage war against Iraq in March 2003 regardless of a lack of evidence of WMD and the UN’s alternative diplomatic avenues. Defendants’ premeditated aggressive actions against Iraq and the manipulative media campaign to rally American public support for the invasion of Iraq do not constitute conduct that is within the scope of the Defendants’ employment.

106. The plan to invade Iraq commenced prior to Defendants taking office and thus did not occur substantially within the authorized time and space limits of Defendants’ employment. From 1997 to 2000, PNAC produced several documents advocating the military overthrow of Saddam Hussein.⁸⁸ On January 26, 1998, Defendants RUMSFELD and WOLFOWITZ signed a letter⁸⁹ to then President William J. Clinton, requesting that the United States implement a “**strategy for removing Saddam’s regime from power**,” which included a “willingness to **undertake military action** as diplomacy is clearly failing.” Removing Saddam from power had to “become the aim of American foreign policy.” (Emphasis added). The letter further stated that the United States could not be “crippled by a misguided insistence on unanimity in the UN Security Council.” On May 29, 1998,⁹⁰ Defendants RUMSFELD and WOLFOWITZ

⁸⁷ *The United States of America, et al. v. Hermann Wilhelm Goering, et al.*, Opinion and Judgment (October 1, 1946), reprinted in 41 Am. J. Int’l L. 172, 189.

⁸⁸ Project for the New American Century, <http://www.newamericancentury.org/iraqmideeast2000-1997.htm>.

⁸⁹ Letter to President Clinton (Jan. 26, 1998), *available at* <http://www.newamericancentury.org/iraqclintonletter.htm>.

⁹⁰ Letter to Newt Gingrich and Trent Lott, (May 29, 1998), *available at* <http://www.newamericancentury.org/iraqletter1998.htm>.

1 signed a letter to then Speaker of the House Newt Gingrich and Senate Majority Leader
 2 Trent Lott in which they advocated that “U.S. policy should have as its explicit goal
 3 removing Saddam Hussein’s regime from power and establishing a peaceful and
 4 democratic Iraq in its place,” which included the use of “U.S. and allied military power . .
 5 . to help remove Saddam from power.”

6 107. On September 18, 1998,⁹¹ Defendant WOLFOWITZ gave testimony
 7 before the House National Security Committee on Iraq in which he stated that the United
 8 States had to “liberat[e] the Iraqi people from Saddam’s tyrannical grasp and free Iraq’s
 9 neighbors from Saddam’s murderous threats.” Defendant WOLFOWITZ advocated that
 10 the United States establish a “safe protected zone in the South” and form a provisional
 11 government that would “**control the largest oil field in Iraq.**” (Emphasis added).

12 108. Defendants’ conduct in executing this pre-existing plan to invade
 13 Iraq was not actuated by a purpose to serve the master. In fact, Defendants RUMSFELD
 14 and WOLFOWITZ advocated for the overthrow of Saddam Hussein during the
 15 Defendants’ involvement with PNAC from 1997-2000. Defendant CHENEY took
 16 unusually frequent trips to the Pentagon in order to meet with intelligence officials about
 17 Iraq, intimidate intelligence officials, as well as dig through unverified raw intelligence at
 18 the OSP.

19 109. Defendants were not motivated by genuine national security interests
 20 but by their pre-existing plan and agenda to invade Iraq, which began as early as 1997.
 21 Defendants were motivated, *inter alia*, by personally-held neo-conservative convictions
 22 which called for American military dominance of the Middle East, and by a religious
 23 worldview that conceived that, “Gog and Magog are at work in the Middle East.”
 24 Defendants were thus motivated by personal and independent malicious and/or
 25 mischievous purposes, and not for purposes related to serving the United States.

26
 27 ⁹¹ Letter by Gary Schmitt regarding Paul Wolfowitz’s Statement on U.S. Policy Toward
 28 Iraq (Sept. 18, 1998), *available at*
<http://www.newamericancentury.org/iraqsep1898.htm>.

110. The use of force by Defendants was unexpected. Defendants were hired to protect the United States and serve its national interests, not to wage war in the interest of a pre-existing plan and personal agenda.

**DEFENDANTS INVADE IRAQ IN VIOLATION OF LAW, COMPLETING
THEIR CRIME OF AGGRESSION AGAINST IRAQ**

111. The crime of aggression is regarded as a violation of law by United Nations General Assembly Resolution 3314, the Kellogg-Briand Pact, Article 6 of the Nuremberg Charter, and Article 5 of the International Military Tribunal for the Far East. Whether aggression has been committed must be determined “in light of all the circumstances of each particular case.”⁹²

112. On March 19, 2003, the United States, upon the order of Defendant BUSH and in coordination with other Defendants, invaded Iraq.

113. Defendants failed to secure United Nations authorization for the war. Article 39 of the United Nations Charter requires the United Nations Security Council to “determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42 to maintain or restore international peace and security.”

114. No such determination was ever or has ever been made by the United Nations Security Council.

115. On March 19, 2003, there was no imminent humanitarian disaster or event in Iraq requiring the intervention of a foreign power.

116. On March 19, 2003, Iraq did not pose an imminent military threat requiring the use of the American military in self-defense.

117. Even had Iraq posed an imminent military threat on March 19, 2003 (which it did not), the invasion of Iraq was not reasonably related or proportionate to the

⁹² See G.A. Res. 3314 (XXIX), U.N. Doc. A/RES/3314 (XXIX) (Dec. 14, 1974).

1 threat posed.

2 118. On September 14, 2004, United Nations Secretary General Kofi
3 Annan stated,⁹³ “I have indicated it was not in conformity with the UN charter. From our
4 point of view and from the charter point of view it was illegal.”

5 119. Defendants violated international law, treaties and assurances by
6 failing to secure proper United Nations authorization for the war, and in implementing a
7 plan they had devised as early as 1997.

8 120. Defendants violated international law, treaties and assurances by
9 ignoring all avenues for diplomacy and seeking to invade Iraq, regardless of the cost, and
10 in implementing a plan they had devised as early as 1997.

11 121. Defendants violated international law, treaties and assurances by
12 attempting to secure domestic and international authorization for the Iraq War through
13 the deception described in this Second Amended Complaint, and in implementing a plan
14 they had devised as early as 1997.

15 **PLAINTIFF IS INJURED AS A RESULT OF THE WAR**

16 122. In 2003, lived in Jalawla, Iraq. She used to teach and work in private
17 galleries. She and her family also had a jewelry store. Plaintiff lived with her husband
18 (from whom she is now divorced) and four children.

19 123. In 2003, the Kurdish Army allied with the United States forced
20 Plaintiff to leave her home in Jalawla. Masked troops came and threatened Plaintiff and
21 her family, telling Plaintiff she would be killed if they did not leave the house.

22 124. Plaintiff was not able to take anything from her house except for
23 some clothes.

24 125. Plaintiff moved to Baghdad, where she found employment working
25 for the independent committee for elections.

26
27 ⁹³ Ewan MacAskill & Julian Borger, *Iraq War Was Illegal and Breached UN Charter,*
28 *says Annan*, The Guardian (Sept. 15, 2004),
<http://www.guardian.co.uk/world/2004/sep/16/iraq.iraq>.

126. In 2005, while in Baghdad, Plaintiff was repeatedly threatened by Shia Muslims over a period of four to five months. Plaintiff is Sabeen Mandeian, and is considered an “infidel” by some Muslim groups in Iraq.

127. In 2005, Plaintiff went to the police for protection. The police refused to help her because they told her they could not even protect themselves.

128. One day in 2005, as Plaintiff was going home, a group of Shia Muslims tried to kill her by ramming their car into hers on the road.

129. After this attempt, Plaintiff and her family moved in with relatives, where they stayed for 10 days. On the tenth day, Shia Muslims found them again and fired ammunition at them in their home. No one was injured.

130. Following this attack, Plaintiff fled Iraq to Jordan, where she lives today.

131. Since arriving in Jordan, Plaintiff has been unable to secure steady employment.

132. Defendants are the “but-for” and proximate cause of Plaintiff’s damages. By launching an illegal war of aggression, Defendants produced the chaos that enveloped Iraq and which led to Plaintiff losing her home, being threatened for her religion, and being forced to flee and live as a refugee in Jordan

133. Defendant has sustained more than \$75,000 in damages as a result of the loss of her home and the loss of her income.

CLASS ACTION ALLEGATIONS

Definition of the Plaintiff Class

134. Pursuant to Federal Rule of Civil Procedure 23(a), Plaintiff brings this action for herself and on behalf of a class of persons consisting of all innocent Iraqi civilians who, through no fault of their own, suffered damage as a but-for and proximate cause of Defendants’ international legal torts, specifically (1) their conspiracy to commit the crime of aggression and (2) the crime of aggression itself. Plaintiff requests certification pursuant to Federal Rule of Civil Procedure 23(b)(3) (hereinafter referred to

as the “**Iraq Civilian Victims’ Class**”)

135. The Iraq Civilian Victims’ Class, as defined herein, includes all Iraqi civilians (i.e. non-combatants) who were damaged by the Iraq War.

136. Plaintiff and members of the Iraq Civilian Victims’ Class may also seek to amend this complaint further in order to establish subclasses including, but not limited to, one or more of the following:

a. A subclass of Iraqi civilian victims who were subject to torture or other war crimes;

b. A subclass of Iraqi civilian victims who were forced to flee Iraq and are now refugees in other countries;

c. A subclass of Iraqi civilian victims who sustained property damage and/or property loss;

d. A subclass of Iraqi civilian victims who sustained only emotional harm, such as pain and suffering as defined by law;

e. Any additional subclass or subclasses of Iraqi civilian victims who have suffered injuries necessitating compensatory damages, to be determined at a later stage in these proceedings.

Rule 23(a) Prerequisites

137. The prerequisites to a class action under Rule 23(a) of the Federal Rules of Civil Procedure exist:

a. **Numerosity:** The members of the Iraq Civilian Victims’ Class are so numerous that joinder of all class members is impracticable. While the exact number of Iraqi victims is unknown to the Representative Plaintiff at this time, it is likely that hundreds of thousands or even millions of Iraqis may have been subject to damages as a result of Defendants’ actions, and would have standing to pursue such claims under 28 U.S.C. § 1350.

b. **Commonality:** Common questions of law and fact exist as to all members of the Iraq Civilian Victims’ Class and predominate over questions affecting

individual members of the Iraq Civilian Victims' Class Questions of law and fact common to the Iraq Civilian Victims' Class include, but are not limited to, the following:

(1) Whether the actions of Defendants constituted a conspiracy to engage in a war of aggression, and whether that conspiracy was the cause of damages to Iraqi civilians;

(2) Whether the actions of Defendants constituted a war of aggression, and whether that war of aggression was the cause of damages to Iraq civilians.

c. **Typicality:** The claims of the Representative Plaintiff is typical of the claims of all members of the Iraq Civilian Victims' Class because all members of the proposed class share the common characteristic of being civilian non-combatants who did not take up arms and who were damaged as a result of Defendant's conspiracy and waging of aggressive war, as complained herein.

d. **Adequacy of Representation:** The Representative Plaintiff will fairly and adequately protect the interests of the Iraq Civilian Victims' Class and is represented by counsel competent and experienced in litigation. The Representative Plaintiff is a member of the Iraq Civilian Victims' Class with claims typical of the claims of all class members. The Representative Plaintiff does not have interests that are antagonistic to or in conflict with those persons whom the Representative Plaintiff seeks to represent.

COUNT I

(Conspiracy To Commit the Crime of Aggression Against All Defendants)

138. Plaintiff incorporates herein Paragraphs 1 through 137 of this Second Amended Complaint.

139. Defendants violated the rule of Nuremberg by engaging in a common plan to attack another country. Defendants initiated this plan as early as 1997.

140. Once in positions of power, Defendants attracted co-conspirators in government to plan and commit the crime of aggression against Iraq.

141. Defendants violated the Kellogg-Briand Pact, a treaty signed in 1928, to which the United States is still a signatory. The Kellogg-Briand Pact requires signatory nations such as the United States to “condemn recourse to war for the solution of international controversies, and renounce it, as an instrument of national policy in their relations with one another.” The Kellogg-Briand Pact requires signatory nations such as the United States to resolve all disputes or conflicts through “peaceful means.” As a Treaty of the United States, the United States Constitution incorporates this principle into its law under Article VI, clause 2, which declares “treaties made . . . to be the supreme law of the land.”

142. Defendants violated the United Nations Charter by planning to commit the crime of aggression. Article II, Section 4 of the United Nations Charter requires countries to “refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nation.” As a Treaty of the United States, the United States Constitution incorporates this principle into its law under Article VI, clause 2, which declares “treaties made . . . to be the supreme law of the land.”

143. The crime of conspiracy to wage an aggressive war is also a violation of customary international law, which creates binding obligations on the United States, its citizens, and its courts. The United States has not only recognized “[i]nternational law is part of our law, and must be ascertained and administered by the courts of justice”⁹⁴ but it has established that a court may look to customary international law when its own nation lacks any instruction that is on point for a particular matter.⁹⁵ The crime of conspiracy to wage an aggressive war has been recognized by the United States, *inter alia*, in the Nuremberg Charter.⁹⁶

⁹⁴ *Paquete Habana*, 175 U.S. 677, 700 (1900).

⁹⁵ *See Paquete Habana*, 175 U.S. at 690-701.

⁹⁶ Charter of the Int’l Military Tribunal, article 6(a) (1945) (hereinafter Nuremberg Charter).

144. The crime of a conspiracy to wage an aggressive war is a violation of international law that rests “on a norm of international character accepted by the civilized world and defined with a specificity comparable to the features of the 18th-century paradigms [the United States Supreme Court has] recognized.” *Sosa v. Alvarez-Machain*, 542 U.S. 692, 725 (2004). Conspiracy to engage in aggressive war was a chief crime prosecuted at Nuremberg, and that Tribunal rejected Nazi attempts to claim vagueness with respect to the specific, definitive, and obligatory nature of this crime.

145. Plaintiff is aware of *Nixon v. Fitzgerald*, 457 U.S. 731 (1982) in which the United States Supreme Court held in a 5-4 decision that the President of the United States possesses immunity in civil court for actions taken pursuant to his official duties as President. Plaintiff submits that *Nixon* is distinguishable in this case in that the plan to invade Iraq commenced prior to the President taking office. Plaintiff further submits that *Nixon* is distinguishable in that she alleges violations of accepted customary norms of international law. Plaintiff submits that *Nixon* does not prohibit a cause of action against the President or any other Executive official who engages in behavior considered reprehensible in a civilized society, such as torture, crimes against humanity, or the crime of aggression. To the extent that *Nixon* stands for the proposition that the person holding the office of President cannot be held civilly liable for violations of accepted customary norms of international law – such as torture, crimes against humanity or the crime of aggression – then Plaintiff submits that *Nixon* is wrongly decided and in direct contravention of accepted principles of the common law, particularly the principle that rulers are “under God and the law.”

146. Defendants, by engaging in a conspiracy to commit the crime of aggression, were the but-for and proximate cause of Plaintiff’s damages (and others like her) in the form of property loss, physical pain, shame, humiliation, degradation and emotional stress, entitling her to damages in an amount to be determined at trial.

147. In light of Defendants’ willful, knowing and intentional violations of law against Plaintiff and others like her, and in light of their reckless and callous

indifference to the impact their actions would have on innocent Iraqi civilians, their breach of international peace, their deception and fraud to the democratic polity which elected them, and their reprehensible and cowardice use of a terrorist attack to commit the crime of aggression against another a country that posed no threat to the United States, endangering the United States armed forces and millions of Iraqi civilians for their own malicious purposes, Plaintiff and others like her seek an award of punitive and exemplary damages in an amount to be determined at trial.

COUNT II

(The Crime of Aggression Against All Defendants)

148. Plaintiff incorporates herein Paragraphs 1 through 147 of this Second Amended Complaint.

149. Defendants violated the rule of Nuremberg by attacking another country without legal justification, and specifically, by committing the crime of aggression against Iraq on March 19, 2003.

150. Defendants violated the rule of Nuremberg by using fraudulent and untrue statements in an attempt to convince diplomats, world leaders and the American public that Iraq posed a threat to the United States and/or that Iraq was in league with al-Qaeda, when neither of these things was true.

151. Defendants violated the Kellogg-Briand Pact, a treaty signed in 1928, to which the United States is still a signatory. The Kellogg-Briand Pact requires signatory nations such as the United States to “condemn recourse to war for the solution of international controversies, and renounce it, as an instrument of national policy in their relations with one another.” The Kellogg-Briand Pact requires signatory nations such as the United States to resolve all disputes or conflicts through “peaceful means.” As a Treaty of the United States, the United States Constitution incorporates this principle into its law under Article VI, clause 2, which declares “treaties made . . . to be the supreme law of the land.”

152. Defendants violated the United Nations Charter by engaging in

aggressive war. Article II, Section 4 of the United Nations Charter requires countries to “refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nation.” As a Treaty of the United States, the United States Constitution incorporates this principle into its law under Article VI, clause 2, which declares “treaties made . . . to be the supreme law of the land.”

153. The crime of aggression is also a violation of customary international law, which creates binding obligations on the United States, its citizens, and its courts. The United States has not only recognized “[i]nternational law is part of our law, and must be ascertained and administered by the courts of justice”⁹⁷ but it has established that a court may look to customary international law when its own nation lacks any instruction that is on point for a particular matter.⁹⁸ The crime of aggression has been recognized by the United States in the Nuremberg Charter,⁹⁹ the International Military Tribunal for the Far East,¹⁰⁰ the Kellogg-Briand Pact,¹⁰¹ the United Nations Charter,¹⁰² and United Nations General Assembly Resolution 3314.¹⁰³

154. The crime of aggression is a violation of international law that rests “on a norm of international character accepted by the civilized world and defined with a specificity comparable to the features of the 18th-century paradigms [the United States Supreme Court has] recognized.” *Sosa v. Alvarez-Machain*, 542 U.S. 692, 725 (2004). The crime of aggression was the chief crime prosecuted at Nuremberg and is the

⁹⁷ *Paquete Habana*, 175 U.S. 677, 700 (1900).

⁹⁸ *See Paquete Habana*, 175 U.S. at 690-701.

⁹⁹ Charter of the Int’l Military Tribunal, art. 6(b) (1945) (hereinafter Nuremberg Charter).

¹⁰⁰ Charter of the Int’l Military Tribunal for the Far East, art. 5(a) (1946) (hereinafter Tokyo Charter).

¹⁰¹ General Treaty for the Renunciation of War as an Instrument of National Policy, arts. 1-2 (August 27, 1928) (hereinafter Kellogg-Briand Pact).

¹⁰² The Charter of the United Nations, art. 2(4) (1945).

¹⁰³ *See* G.A. Res. 3314 (XXIX), U.N. Doc. A/RES/3314 (XXIX) (Dec. 14, 1974).

1 “supreme international crime.” The Nuremberg Tribunal rejected Nazi attempts to claim
2 vagueness with respect to the specific, definitive, and obligatory nature of this crime.

3 155. Plaintiff is aware of *Nixon v. Fitzgerald*, 457 U.S. 731 (1982) in
4 which the United States Supreme Court held in a 5-4 decision that the President of the
5 United States possesses immunity in civil court for actions taken pursuant to his official
6 duties as President. Plaintiff submits that *Nixon* is distinguishable in this case in that the
7 plan to invade Iraq commenced prior to the President taking office. Plaintiff further
8 submits that *Nixon* is distinguishable in that she alleges violations of accepted customary
9 norms of international law. Plaintiff submits that *Nixon* does not prohibit a cause of
10 action against the President or any other Executive official who engages in behavior
11 considered reprehensible in a civilized society, such as torture, crimes against humanity,
12 or the crime of aggression. To the extent that *Nixon* stands for the proposition that the
13 person holding the office of President cannot be held civilly liable for violations of
14 accepted customary norms of international law – such as torture, crimes against humanity
15 or the crime of aggression – then Plaintiff submits that *Nixon* is wrongly decided and in
16 direct contravention of accepted principles of the common law, particularly the principle
17 that rulers are “under God and the law.”

18 156. Defendants, by engaging in the crime of aggression, were the but-for
19 and proximate cause of Plaintiff’s damages (and others like her) in the form of property
20 loss, physical pain, shame, humiliation, degradation and emotional stress, entitling her to
21 damages in an amount to be determined at trial.

22 157. In light of Defendants’ willful, knowing and intentional violations of
23 law against Plaintiff and others like her, and in light of their reckless and callous
24 indifference to the impact their actions would have on innocent Iraqi civilians, their
25 breach of international peace, their deception and fraud to the democratic polity which
26 elected them, and their reprehensible and cowardice use of a terrorist attack to commit
27 the crime of aggression against another a country that posed no threat to the United
28 States, endangering the United States armed forces and millions of Iraqi civilians for their

own malicious purposes, Plaintiff and others like her seek an award of punitive and exemplary damages in an amount to be determined at trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendants on all alleged claims, as follows:

1. For an order finding that Defendants conspired to, planned and committed the crime of aggression against Iraq.

2. For an award of compensatory damages against Defendants in an amount sufficient to compensate Plaintiff and all members of the Iraq Civilian Victims' Class for damages they sustained as a result of Defendants' illegal actions in planning and mounting a war of aggression against Iraq.

3. To the extent that Defendants' assets do not cover damages of the Iraq Civilian Victims' Class, that Defendants set up, manage and obtain other funding at their expense a restitution fund to provide for proper compensation to any and all Iraqi civilians who were damaged because of Defendants' commission of the crime of aggression against Iraq.

4. For an award of exemplary and punitive damages against Defendants in an amount sufficient to punish and set an example of them in their unconscionable conduct in planning and committing the crime of aggression against another country, in violation of international treaties and assurances.

5. For an order awarding Plaintiff's costs of suit, including litigation expenses (such as costs for depositions and experts), photocopying expenses, and filing fees in an amount which this Court deems just, equitable and proper. Counsel for Plaintiff has no financial interest tied to the outcome of this litigation and is not charging fees for representing the Plaintiff and the proposed class.

6. Such other and further relief as the Court deems just, equitable and proper.

TRIAL BY JURY DEMANDED

Pursuant to Federal Rule of Civil Procedure 38 and Civil Local Rule 3-6,
Plaintiff hereby demands a jury trial on all issues so triable.

Dated: June 8, 2014

COMAR LAW

By /s/ Inder Comar
D. Inder Comar
Attorney for Lead Plaintiff
SUNDUS SHAKER SALEH

EXHIBIT A

~~TOP SECRET~~

2:40

Resume Statement:

N.R.

Best info past

judge whether good enough

judge whether

Hit SH @ same time -

Not only UBL

Tasks Jim Haynes to talk w/ PW
for additional support w/ U.S. &
connection w/ UBL

N.R.,
(le)(l)

- Hard to get a good case

- Need to move swiftly -

- Near term target needs -

- go massive - sweep it all up

- Thing related & not

need to do so
to get any thing
useful

~~TOP SECRET~~

(6)

EXHIBIT B

fig E.1 of 3

UNCLASSIFIED

~~TOP SECRET CLOSE HOLD~~

November 27, 2001

- Focus on WMD.
- Slices (building momentum for regime change): *might not have to go all the way*

b(1) 1.4(a), 1.4(c)

- WMD sites.
- Seize or destroy offensive missile sites (factories; deployed systems).
- Seize or destroy Republican Guards.

b(1) 1.4(a), 1.4(c)

Do in advance?

- Oil fields in south.
- Oil fields in north.
- Seize western desert:
 - Secure Jordanian border,
 - Prevent SCUD missile launches (against Israel).
- Deploy ground forces in western desert or south of Baghdad:
 - Threaten Baghdad.
 - Force Republican Guards to move and present targets.

* what order
to create
likelihood of
collapse?

- Cut off Baghdad:
 - Prevent movement of WMD materials.
 - Pressure on regime.
- Protect Provisional Government, north or south.
- Regime change.

- How start? *→ what do forces do coming out of Afghanistan?*

- Saddam moves against Kurds in north?
- US discovers Saddam connection to Sept. 11 attack or to anthrax attacks?
- Dispute over WMD inspections?
 - Start now thinking about inspection demands.

- Surprise, speed, shock and risk.

*Power communications, etc
People hate him -- may
want to take him out.*

- Do not reduce footprint now.
- Be ready to strike from a standing start.

*Enhance
current footprint.*

Start military action before moving into place all the force Republican Guards that would be required in the worst case. Larger forces flow in behind.

- Decapitation of government.

- Do early.
- Cut off communications too – including television and radio.

~~TOP SECRET CLOSE HOLD~~

UNCLASSIFIED

EXHIBIT C

Declassified and Approved
for Release, 10 April 2004

Bin Ladin Determined To Strike in US



Clandestine, foreign government, and media reports indicate Bin Ladin since 1997 has wanted to conduct terrorist attacks in the US. Bin Ladin implied in US television interviews in 1997 and 1998 that his followers would follow the example of World Trade Center bomber Ramzi Yousef and "bring the fighting to America."

After US missile strikes on his base in Afghanistan in 1998, Bin Ladin told followers he wanted to retaliate in Washington, according to a [REDACTED] service.

An Egyptian Islamic Jihad (EIJ) operative told an [REDACTED] service at the same time that Bin Ladin was planning to exploit the operative's access to the US to mount a terrorist strike.

The millennium plotting in Canada in 1999 may have been part of Bin Ladin's first serious attempt to implement a terrorist strike in the US. Convicted plotter Ahmed Ressam has told the FBI that he conceived the idea to attack Los Angeles International Airport himself, but that Bin Ladin lieutenant Abu Zubaydah encouraged him and helped facilitate the operation. Ressam also said that in 1998 Abu Zubaydah was planning his own US attack.

Ressam says Bin Ladin was aware of the Los Angeles operation.

Although Bin Ladin has not succeeded, his attacks against the US Embassies in Kenya and Tanzania in 1998 demonstrate that he prepares operations years in advance and is not deterred by setbacks. Bin Ladin associates surveilled our Embassies in Nairobi and Dar es Salaam as early as 1993, and some members of the Nairobi cell planning the bombings were arrested and deported in 1997.

Al-Qa'ida members—including some who are US citizens—have resided in or traveled to the US for years, and the group apparently maintains a support structure that could aid attacks. Two al-Qa'ida members found guilty in the conspiracy to bomb our Embassies in East Africa were US citizens, and a senior EIJ member lived in California in the mid-1990s.

A clandestine source said in 1998 that a Bin Ladin cell in New York was recruiting Muslim-American youth for attacks.

We have not been able to corroborate some of the more sensational threat reporting, such as that from a [REDACTED] service in 1998 saying that Bin Ladin wanted to hijack a US aircraft to gain the release of "Blind Shaykh" Umar 'Abd al-Rahman and other US-held extremists.

continued

For the President Only
6 August 2001

Declassified and Approved
for Release, 10 April 2004

- Nevertheless, FBI information since that time indicates patterns of suspicious activity in this country consistent with preparations for hijackings or other types of attacks, including recent surveillance of federal buildings in New York.

The FBI is conducting approximately 70 full field investigations throughout the US that it considers Bin Ladin-related. CIA and the FBI are investigating a call to our Embassy in the UAE in May saying that a group of Bin Ladin supporters was in the US planning attacks with explosives.

For the President Only
6 August 2001


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EXHIBIT D

SECRET AND STRICTLY PERSONAL - UK EYES ONLY

DAVID MANNING

From: Matthew Rycroft

Date: 23 July 2002

S 195 /02

cc: Defence Secretary, Foreign Secretary, Attorney-General, Sir Richard Wilson, John Scarlett, Francis Richards, CDS, C, Jonathan Powell, Sally Morgan, Alastair Campbell

IRAQ: PRIME MINISTER'S MEETING, 23 JULY

Copy addressees and you met the Prime Minister on 23 July to discuss Iraq.

This record is extremely sensitive. No further copies should be made. It should be shown only to those with a genuine need to know its contents.

John Scarlett summarised the intelligence and latest JIC assessment. Saddam's regime was tough and based on extreme fear. The only way to overthrow it was likely to be by massive military action. Saddam was worried and expected an attack, probably by air and land, but he was not convinced that it would be immediate or overwhelming. His regime expected their neighbours to line up with the US. Saddam knew that regular army morale was poor. Real support for Saddam among the public was probably narrowly based.

C reported on his recent talks in Washington. There was a perceptible shift in attitude. Military action was now seen as inevitable. Bush wanted to remove Saddam, through military action, justified by the conjunction of terrorism and WMD. But the intelligence and facts were being fixed around the policy. The NSC had no patience with the UN route, and no enthusiasm for publishing material on the Iraqi regime's record. There was little discussion in Washington of the aftermath after military action.

CDS said that military planners would brief CENTCOM on 1-2 August, Rumsfeld on 3 August and Bush on 4 August.

The two broad US options were:

(a) Generated Start. A slow build-up of 250,000 US troops, a short (72 hour) air campaign, then a move up to Baghdad from the south. Lead time of 90 days (30 days preparation plus 60 days deployment to Kuwait).

(b) Running Start. Use forces already in theatre (3 x 6,000), continuous air campaign, initiated by an Iraqi casus belli. Total lead time of 60 days with the air campaign beginning even earlier. A hazardous option.

The US saw the UK (and Kuwait) as essential, with basing in Diego Garcia and Cyprus critical for either option. Turkey and other Gulf states were also important, but less vital. The three main options for UK involvement were:

(i) Basing in Diego Garcia and Cyprus, plus three SF squadrons.

(ii) As above, with maritime and air assets in addition.

(iii) As above, plus a land contribution of up to 40,000, perhaps with a discrete role in Northern Iraq entering from Turkey, tying down two Iraqi divisions.

The Defence Secretary said that the US had already begun “spikes of activity” to put pressure on the regime. No decisions had been taken, but he thought the most likely timing in US minds for military action to begin was January, with the timeline beginning 30 days before the US Congressional elections.

The Foreign Secretary said he would discuss this with Colin Powell this week. It seemed clear that Bush had made up his mind to take military action, even if the timing was not yet decided. But the case was thin. Saddam was not threatening his neighbours, and his WMD capability was less than that of Libya, North Korea or Iran. We should work up a plan for an ultimatum to Saddam to allow back in the UN weapons inspectors. This would also help with the legal justification for the use of force.

The Attorney-General said that the desire for regime change was not a legal base for military action. There were three possible legal bases: self-defence, humanitarian intervention, or UNSC authorisation. The first and second could not be the base in this case. Relying on UNSCR 1205 of three years ago would be difficult. The situation might of course change.

The Prime Minister said that it would make a big difference politically and legally if Saddam refused to allow in the UN inspectors. Regime change and WMD were linked in the sense that it was the regime that was producing the WMD. There were different strategies for dealing with Libya and Iran. If the political context were right, people would support regime change. The two key issues were whether the military plan worked and whether we had the political strategy to give the military plan the space to work.

On the first, CDS said that we did not know yet if the US battleplan was workable. The military were continuing to ask lots of questions.

For instance, what were the consequences, if Saddam used WMD on day one, or if Baghdad did not collapse and urban warfighting began? You said that Saddam could also use his WMD on Kuwait. Or on Israel, added the Defence Secretary.

The Foreign Secretary thought the US would not go ahead with a military plan unless convinced that it was a winning strategy. On this, US and UK interests converged. But on the political strategy, there could be US/UK differences. Despite US resistance, we should explore discreetly the ultimatum. Saddam would continue to play hard-ball with the UN.

John Scarlett assessed that Saddam would allow the inspectors back in only when he thought the threat of military action was real.

The Defence Secretary said that if the Prime Minister wanted UK military involvement, he would need to decide this early. He cautioned that many in the US did not think it worth going down the ultimatum route. It would be important for the Prime Minister to set out the political context to Bush.

Conclusions:

(a) We should work on the assumption that the UK would take part in any military action. But we needed a fuller picture of US planning before we could take any firm decisions. CDS should tell the US military that we were considering a range of options.

(b) The Prime Minister would revert on the question of whether funds could be spent in preparation for this operation.

(c) CDS would send the Prime Minister full details of the proposed military campaign and possible UK contributions by the end of the week.

(d) The Foreign Secretary would send the Prime Minister the background on the UN inspectors, and discreetly work up the ultimatum to Saddam.

He would also send the Prime Minister advice on the positions of countries in the region especially Turkey, and of the key EU member states.

(e) John Scarlett would send the Prime Minister a full intelligence update.

(f) We must not ignore the legal issues: the Attorney-General would consider legal advice with FCO/MOD legal advisers.

(I have written separately to commission this follow-up work.)

MATTHEW RYCROFT

EXHIBIT E

CONFIDENTIAL AND PERSONAL

PR.121

FROM: P F RICKETTS
POLITICAL DIRECTOR

DATE: 22 MARCH 2002

CC: PUS

SECRETARY OF STATE

IRAQ: ADVICE FOR THE PRIME MINISTER

1 You invited thoughts for your personal note to the Prime Minister covering the official advice (we have put up a draft minute separately). Here are mine.

2 By sharing Bush's broad objective¹ the Prime Minister can help shape how it is defined, and the approach to achieving it. In the process, he can bring home to Bush some of the realities which will be less evident from Washington. He can help Bush make good decisions by telling him things his own machine probably isn't.

3 By broad support for the objective brings two real problems which need discussing.

4 First, the THREAT. The truth is that what has changed is not the pace of Saddam Hussein's WMD programmes, but our tolerance of them post-11 September. This is not something we need to be defensive about, but attempts to claim otherwise publicly will increase scepticism about our case. I am relieved that you decided to postpone publication of the unclassified document. My meeting yesterday showed that there is more work to do to ensue that the figures are accurate and consistent with those of the US. But even the best survey of Iraq's WMD programmes will not show much advance in recent years ont he nuclear, missile or CW/BW fronts: the programmes are extremely worrying but have not, as far as we know,¹ been stepped up.

5 US scrambling to establish a link between Iraq and Al Aaida is so far frankly unconvincing. To get public and Parliamentary support for military operations, we have to be convincing that:

- the threat is so serious/imminent that it is worth sending our troops to die for;
- it is qualitatively different from the threat posed by other proliferators who are closer to achieving nuclear capability (including Iran).

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We can make the case on qualitative difference (only Iraq has attacked a neighbour¹¹ used CW and fired missiles against Israel). The overall strategy needs to include re-doubled efforts to tackle other proliferators, including Iran, in other ways (the UK/French ideas on greater IAEA activity are helpful here). But we are still left with a problem of bringing public opinion to accept the imminence of a threat from Iraq. This is something the Prime Minister and President need to have a frank discussion about.

6 The second problem is the END STATE. Military operations need clear and compelling military objectives. For Kosovo¹¹ it was: Serbs out, Kosovars back¹¹ peace-keepers in. For Afghanistan, destroying the Taliban and Al Qaida military capability. For Iraq, "regime change" does not stack up. It sounds like a grudge between Bush and Saddam. Much better, as you have suggested, to make the objective ending the threat to the international community from Iraqi WMD before Saddam uses it or gives it to terrorists. This is at once easier to justify in terms of international law¹¹ but also more demanding. Regime change which produced another Sunni General still in charge of an active Iraqi WMD programme would be a bad outcome (not least because it would be almost impossible to maintain UN sanctions on a new leader who came in promising a fresh start). As with the fight against UBL, Bush would do well to de¹¹personalise the objective¹¹ focus on elimination of WMD, and show that he is serious about UN Inspectors as the first choice means of achieving that (it is win/win for him: either Saddam against all the odds allows Inspectors to operate freely¹¹ in which case we can further hobble his WMD programmes, or he blocks/hinders, and we are on stronger ground for switching to other methods).

7 Defining the end state in this way, and working through the UN, will of course also help maintain a degree of support among the Europeans, and therefore fits with another major message which the Prime Minister will want to get across: the importance of positioning Iraq as a problem for the international community as a whole¹¹ not just for the US.

PETER RICKETS

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