



MINORITY STAFF
COMMITTEE ON GOVERNMENT REFORM
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Fact Sheet

President's Commission on Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction

On February 6, 2004, President Bush issued Executive Order 13328, creating a nine-member commission to investigate intelligence on weapons of mass destruction. The Commission is chaired by Judge Laurence Silberman and former Governor and Senator Chuck Robb. Other members appointed are Senator John McCain; Lloyd Cutler, former White House Counsel to Presidents Carter and Clinton; Rick Levin, President of Yale University; Admiral Bill Studeman, former Deputy Director of the Central Intelligence Agency; Judge Pat Wald; Charles Vest, president of the Massachusetts Institute of Technology; and Henry Rowen, professor emeritus of public policy and management at Stanford University, senior fellow at the Hoover Institution, and a former Pentagon official.

The Commission has been charged with assessing “whether the Intelligence Community is sufficiently authorized, equipped, trained, and resourced to identify and warn in a timely manner of, and to support United States Government efforts to respond to, the development and transfer of knowledge, expertise, technologies, materials, and resources associated with the proliferation of Weapons of Mass Destruction” and related threats. With respect to Iraq specifically, the Commission is to examine “the Intelligence Community's intelligence prior to the initiation of Operation Iraqi Freedom” and “compare it with the findings of the Iraq Survey Group and other relevant agencies or organizations concerning the capabilities, intentions, and activities of Iraq relating to the design, development, manufacture, acquisition, possession, proliferation, transfer, testing, potential or threatened use, or use of Weapons of Mass Destruction and related means of delivery.”

The President's Executive Order fails to ensure the most basic elements necessary for a meaningful review of what went wrong with intelligence on Iraq. These are some of the major shortcomings:

- **The Commission will not examine how the White House used intelligence.** Among the most serious unresolved questions are whether White House officials, including the President and the Vice President, exaggerated or distorted intelligence on Iraq. Yet the President has not directed the Commission to review this. Instead, the Commission's mission focuses on the capabilities of the intelligence community.

- **The President can change security procedures at will.** Although the executive order says the commission will have “full and complete access” to information, it also includes a large qualification: “The President at any time may modify the security rules or procedures of the Commission.” The work of the 9/11 Commission has been hampered by the White House’s refusal to share certain classified information. The President’s Iraq Commission will have even less ability to obtain such information.
- **The Commission lacks means to compel documents and testimony.** The President failed to request legislation to provide the Commission with subpoena power. This authority is necessary to ensure that Administration agencies and individuals will not withhold critical documents and testimony from the Commission.
- **The President failed to ensure that the public and Congress will have the opportunity to review the Commission’s ongoing work or final work product.** The Commission is not required to hold public hearings, and it reports only to the President. Its purpose is “solely” to “advise and assist the President.” There is no guarantee that the Commission’s full work product will be provided to policymakers in Congress or the American public. Two previous intelligence panels answering only to the President kept their findings secret: the President’s Foreign Intelligence Advisory Board, which examined the false State of the Union claim that Iraq sought uranium from Niger; and an administrative review of pre-9/11 intelligence failures, which was established by National Security Presidential Directive 5. This is why Congress required the 9/11 Commission to submit its reports to both “the President and Congress.”
- **Funding for the Commission is unclear.** In creating the 9/11 Commission, Congress provided \$3 million for staff, administrative costs, and other expenses. Congressional legislation to establish a commission on Iraq proposed \$5 million. The President’s executive order says nothing about funding. Although the President may have flexibility to take funding away from other sources, he has not explained how he will do this.
- **The Commission’s report is not due until 2005.** Unlike a similar commission recently established in Britain, which will report on its findings by this summer, the President’s Commission will wait until 2005 to deliver its findings. Although interim reports were submitted by both the 9/11 Commission and David Kay’s Iraq Support Group, the President’s executive order does not require them for the Iraq Commission. As a result, the American people will not have the benefit of the Commission’s work prior to the election in November.
- **The President to date has not ensured that the Commission has the appropriate range of expertise.** The President has appointed no commissioners with first-hand knowledge of the extensive 30 million-page archive on Iraq’s weapons programs compiled by the United Nations Monitoring, Verification and Inspection Commission (UNMOVIC), the United Nations Special Commission (UNSCOM), and the International Atomic Energy Agency (IAEA).