

Chapter 4

The Iraq Survey Group and its ability to report frankly and fearlessly

4.1 This chapter addresses the second half of the terms of reference which is concerned with the work of the ISG. The committee examines whether the ISG was able to report frankly and fearlessly on what it had found, or whether attempts were made to censor or otherwise distort its findings. It also seeks to ascertain whether any Australian personnel provided information or concerns to the Australian government relating to concerns about the work of the ISG and, if so, what actions followed.

The ISG reports

4.2 Dr David Kay was the first Special Advisor to the ISG, serving in Iraq from June 2003 until 7 December 2003. Under his direction, ISG began a systematic survey and examination of the existence and location of WMD capabilities. He provided an interim progress report to the Director of Central Intelligence in September 2003 on the early findings of the investigation. Under his leadership, ISG interviewed many key participants in the WMD programs, undertook site visits, and began the review of captured documents.¹

4.3 Mr Charles Duelfer replaced Dr Kay and took up his position as Special Advisor in Iraq on 12 February 2004. The ISG produced an interim report in March 2004. On 30 March 2004, Mr Duelfer told Congress that after Dr Kay left, the ISG 'continued to follow its previous strategy, but the effort shifted towards fewer site visits, more debriefings, and greater use of document sorting and review'. He concluded that 'there is more work to be done to gather critical information about the regime, its intentions, and its capabilities, and to assess that information for its meaning.'² The ISG produced a 'comprehensive' report in September 2004.

4.4 The intelligence services of three nations—the UK, the US and Australia—supported the ISG. They include the SIS and the Defense Intelligence Service in the United Kingdom; both the Defense Intelligence Agency and Central Intelligence Agency in the United States, and some highly skilled intelligence analysts provided by Australia. The September 2004 report of the ISG states that while these institutions expressed interest in the findings of the ISG and certainly were curious where their

1 *Comprehensive Report of the Special Advisor to the DCI on Iraq's WMD*, 30 September 2004.

2 Testimony to the US Congress by Mr Charles Duelfer, Director of Central Intelligence Special Advisor for Strategy regarding Iraqi Weapons of Matters Destruction (WMD) Programs, 30 March 2004.

pre-war assessments went wrong, they did not try to steer in any way the judgments included in the report.³

4.5 Mr Barton supported the view that the September report of the ISG was an objective report free from the influence of external forces. He stated that the substantive report of the ISG presented to congress last October was 'a frank and honest report'. To his knowledge there was no attempt by any government to censor or in any other way interfere with the conclusions of the report.

4.6 He believed, however, that this was not the case with the March interim report that he was involved with. He was in no doubt that political influences from London and Washington were exerted to try to change what the ISG was saying in this report.⁴ He noted, however, that the Australian government did not seek to influence the ISG in drafting its report.

4.7 Mr Barton explained that the external pressure being applied on the team was to prepare a report that did not honestly reflect the evidence they had gathered—that matters were not to be included in the report because they were 'too politically difficult'.⁵ He told the Committee:

I was responsible for the coordination and oversight of the March report. It was circulated to capitals for comment, and I received feedback from Washington, London and Canberra. The comments from Canberra were constructive and largely editorial and caused me no difficulty. London, however, suggested that we add certain material. I believe these additions were designed to leave the impression that WMD might yet be found. This would have been contrary to our views. The CIA also sent suggested amendments. Many of these were quite useful, but there were two amendments that were blatant attempts to change our findings.

To the credit of Charles Duelfer, the head of the ISG, these attempts at changing the nature of the report were rejected. Nevertheless, it was still a poor report in that it did not say what by this time we knew... In my view the report was symptomatic of a wider malaise in the ISG. At that time there was no real objectivity in the investigation and it seemed to me that a lot of the direction, particularly in the chemical and biological areas, was coming from Washington.⁶

4.8 Mr Barton explained that his resignation letter outlined some of this information. He stated that 'Again, I should make it clear that I was not the only

3 Acknowledgements, *Comprehensive Report of the Special Adviser to the DCI on Iraq's WMD*, 30 September 2004.

4 *Committee Hansard*, 29 March 2005, pp. 47–48.

5 Transcript, *Four Corners*, 14 February 2005.

6 *Committee Hansard*, 29 March 2005, pp. 3–4.

person to resign. Another senior Australian resigned shortly before me, for similar reasons, as did one senior investigator from the UK'.⁷

4.9 He detailed some of the aspects of the interim report that worried him:

The mobile laboratories were something that we, the ISG, investigated very thoroughly throughout 2003. By the end of that year and certainly by early 2004, we had come to fairly firm conclusions on exactly what those trailers were. We call them trailers. There were two of them that we had in our camp, actually—at Camp Slayer. The evidence of all of the experts who went through those trailers was that those trailers were nothing to do with biology. In actual fact, they were hydrogen generators. That was an issue that I was told by a senior CIA official we could not discuss. In fact, that senior person—and I am not talking about Charles Duelfer; I am talking about his senior staff member—said that it did not matter what they were or what they were for, he did not want to know and we could not write about that. It was too politically difficult, he told me. I said: 'How can we refer to these in the report? We need to make a reference. We have done all of this work and we have quite a thorough document on these trailers—as to what they are and what their purpose is'. He said, 'I don't care—that can't go in the report'. I spoke to Charles Duelfer afterwards and he said, 'I'm not interested in that'. Therefore, in the report we put out in March, there was no reference to our findings about those trailers. I actually put it to Charles: 'There are still members in your government—not in mine anymore, but in yours—who are referring to those trailers as biological trailers. We know they are not and we are not telling them.' He said, 'I'm not interested in that. We're not putting that in the report'. And it did not go in.⁸

4.10 He explained further:

That was one of the concerns. It was the whole process, not just the report...There were other issues that we already knew about—things that debunked some of the other stuff that we knew about—that had been raised in Powell's presentation to the United Nations Security Council the February before...

When I asked Charles Duelfer about this, his argument—and I take on a little bit of this—was 'I have been here too short a period of time. You are trying to make me come to firm conclusions about things when I have only been here a short while.' We argued a lot about that. But I said to him, 'Look, by the time you report to congress, you will have been around for six or seven weeks, first of all. Secondly, you didn't come here cold. You were the deputy executive chairman from UNSCOM. You have been a researcher, an academic, looking at all these issues. You were briefed in Washington before you came and we have briefed you now. So you are not starting off cold. I know it will be difficult'. I felt that we should still say

7 *Committee Hansard*, 29 March 2005, p. 4.

8 *Committee Hansard*, 29 March 2005, pp. 47–48.

these things. To hide information that we knew about, I thought, was very wrong.

4.11 Mr Barton told the committee that he had reported his concerns about the ISG to government authorities on his return to Australia in March 2004. As noted previously, Mr Pezzullo had consulted an Air Force Group Captain who had been present at the meeting who recalled:

The meeting was focused on the work he had undertaken with the ISG, his reasons for leaving early and his recommendations for the provision of further support to the ISG, all of which were outlined in his letter of resignation to the first assistant secretary.⁹

4.12 His letter of resignation in particular cited the influence being exerted by the CIA on the content and shape of the report. Mr Barton wrote that 'The Agency's attitude was *there are weapons out there, we just have to find them*'. He went on to state in his letter of resignation:

The consequences of the new CIA approach had a dramatic effect on the ISG and influence its daily work. There are many examples of this. At a meeting I attended on 20 February, analysts were told that an edict from Washington stated that '*the burden of proof had to be higher*' for assessments that contradict statements by Secretary Powell in his speech to the UN a year earlier. This caused re-investigation of issues that under other circumstances would have been finalized. But the most profound effect was on the March report.

The Progress Report that I had been coordinating was put aside and a new 25 page, 'Status Report' that contained no assessment, was put forward by Charles Duelfer. He said this approach was endorsed by the Agency although he claimed that he was not pressured to take this line. The Status Report avoids assessment of, and in some cases even mention of, controversial and negative issues, including the so-called 'biological trailers', the aluminium tubes, the mobile biological production program, chemical weapon storage depots and the small pox program. The effect is therefore a biased report and the suppression of information in the ISG's possession.¹⁰

4.13 He also mentioned the resignation of two close colleagues—both senior advisers to the head of the ISG—on similar grounds. One from the UK who according to Mr Barton was the most experienced and senior investigator and the other an Australian who was doing a job similar to his. He had discussed this matter with them

9 Committee Hansard, 16 February 2005, p. 77.

10 Rod Barton, letter of resignation, 29 March 2004, http://www.abc.net.au/4corners/content/2005/20050214_rod_barton/img/resignation1.gif (27 March 2005).

and also saw their letters of resignation.¹¹ He told the Committee that their letters of resignation were couched in similar terms to his:

I have seen both of their resignation letters, and of course I discussed this with them. I know exactly why they resigned, and it was essentially for the same reasons that I resigned. That is, they felt there was no objectivity at that time in the ISG, not only in the way it was reporting but in the way it was doing its investigation. As I mentioned, the direction seemed to be coming from Washington and from the CIA.¹²

4.14 He also understood that the Australian colleague who resigned shortly before him, and who had written a similar letter of resignation, had discussed this with various senior officials in both DFAT and Defence in March last year. Moreover, the colleague, who had left Iraq on 8 March 2004, had sent him a series of emails detailing his experiences on arrival in Australia. They record that he met Paul O'Sullivan and spent about 20 minutes with Minister Downer. Mr Barton stated that he was informed that Mr Downer had seen the letter of resignation and referred to it and some of the assessments it contained.¹³ According to Mr Barton, on 10 March, his colleague also saw the Secretary of Defence, Mr Ric Smith and also Ms Foster, the branch head responsible for the area.

4.15 Mr Barton also mentioned a meeting in Baghdad with the Australian Representative, Neil Mules, and Mr Quinn, where according to Mr Barton they discussed his colleague's resignation and the letter of resignation.¹⁴ The identity of Mr Barton's Australian colleague, Dr John Gee, was revealed publicly in media reports on 30 and 31 March 2005.¹⁵

4.16 It appears that there may have been two meetings, one on 26 February and a dinner party on 2 March 2004.¹⁶ According to Mr Blazey, Head Iraq Task Force, at the meeting on 26 February, Mr Barton and Dr Gee conveyed to Mr Quinn their concerns about the direction of the ISG relating to the forthcoming ISG's interim report. He understood the main concerns centred on 'some methodological issues, the structure and objectivity of the report'.¹⁷ He also confirmed that resignations were discussed and that Dr Gee presented Mr Quinn with his letter of resignation which

11 *Committee Hansard*, 29 March 2005, pp. 11, 39–40, 44.

12 *Committee Hansard*, 29 March 2005, p. 11.

13 *Committee Hansard*, 29 March 2005, p. 42.

14 *Committee Hansard*, 29 March 2005, pp. 43–44.

15 *The Australian*, 30 March 2005, p. 4 and 31 March p. 4; *Sydney Morning Herald*, 31 March 2005, p. 5 and the *Age*, 31 March 2005, p. 6.

16 See para. 3.24 in chapter 3.

17 *Proof Committee Hansard*, 1 June 2005, p. 68.

was addressed to Mr Quinn.¹⁸ He believed that the Minister for Foreign Affairs was provided with a copy of the letter.¹⁹

4.17 When asked whether a report emanating from this meeting was sent back to Australia, Mr Blazey stated his understanding that there was a report but the 'more substantive record of those concerns was contained in a letter conveyed to Mr Quinn by Dr Gee'.²⁰

4.18 In turning to Dr Gee's meeting with Mr Downer, Mr Blazey told the committee that it was not appropriate for him to 'report on the content or otherwise of private conversations of the foreign minister.' He was of the view that Mr Quinn was also present at that meeting.²¹

4.19 The committee wrote to Dr Gee inviting him to make a written submission and to appear before the Committee to give evidence. He declined the invitation stating that he had not participated in any interrogations, interviews or debriefs of Iraqi personnel while in Iraq. He stated further that he did not visit Camp Cropper, had not been aware of, or made any reports of, instances of abuse of Iraqi detainees in Camp Cropper on his return to Australia. He confirmed that he had resigned from the Iraqi Survey Group in February 2004 and that he explained the reasons for this to the government at the time. He was of the view that he could not usefully add any further information to what was already on the public record about these matters.

4.20 Furthermore, he felt that as a former public servant he was obliged under the Code of Conduct to maintain appropriate confidentiality about his dealings as an employee with any Minister or Minister's member of staff. He quoted from the code that directs that '...except in the course of his or her duties as a APS employee or with the Agency's express authority, not give or disclose directly or indirectly, any information about public business or anything of which the employee has official knowledge'. Dr Gee concluded that:

...I note that Mr Downer has already publicly described our conversation of 15 March as private and declined to give any details of it: since he has characterised it thus, I do not feel there is anything I can say about it.²²

4.21 He also noted that the Post Separation Employment Guidelines attached to the Department of Defence's letter of release from his contract indicated that he was bound by sub-Section 70(2) of the Crimes Act.

18 Proof *Committee Hansard*, 1 June 2005, pp. 69 and 70.

19 Proof *Committee Hansard*, 1 June 2005, p. 71.

20 Proof *Committee Hansard*, 1 June 2005, p. 68

21 Proof *Committee Hansard*, 1 June 2005, p. 70.

22 Correspondence from Dr Gee to the committee, 4 May 2005.

4.22 Recognising that a Senate standing committee possesses the full range of inquiry powers, including the authority to compel evidence and that any person giving evidence before such a committee is protected under parliamentary privilege, the committee requested his attendance. It explained to him that given his concerns about giving evidence, the committee noted that Mr Peter Varghese, Director-General, Office of National Assessment, gave assurances that there would be no repercussions for him or ONA if he were to appear before the committee.²³

4.23 The committee advised Dr Gee that Mr Varghese's statement was in accordance with section 12 of the *Parliamentary Privileges Act 1987* dealing with the protection of witnesses. It noted that it is a breach of this section for any person to take adverse action against another person because that person gives evidence before a parliamentary committee.

4.24 The committee understands Dr Gee's reluctance to give evidence in public about his letter of resignation and conversations with the Minister and senior officials. The committee, however, explained to Dr Gee that, although it prefers all evidence to be given in public, he could make a request to the Chair to give evidence in camera and the committee would consider his request.

4.25 Dr Gee declined the committee's request for his attendance to give evidence re-stating his view that there was little value he could add to the committee's deliberations. He stated that much of what he could say had already been placed on the public record or because there could be limits on what he 'could say because of residual obligations to the Commonwealth arising from his engagement by the Department of Defence'.

4.26 The committee wants to make clear that in respect of giving evidence to it, Dr Gee was not legally bound by, or liable to, the provisions to which he referred. Furthermore, the committee does not accept his assumption that there was little of value he could add to the committee's deliberations. This committee has the important and difficult task of testing the veracity of evidence before it in order to arrive at informed and well-considered findings. The committee is best placed to determine the matters which it believes needs to be examined and it relies on the good will and cooperation of witnesses to assist it in its inquiry. The committee believes that Dr Gee's failure to appear before the committee seriously frustrated attempts by the committee to reconcile the information it had before it and severely hindered the committee's obligation to report on its terms of reference.

4.27 One committee member noted, however, that it was Dr Gee's prerogative to decline the committee's request for him to appear and that the committee had the power to subpoena Dr Gee, but it chose not to do so.

23 Mr Varghese gave these assurances before the Finance and Public Administration Legislation Committee on 24 May 2005.

Committee view

4.28 In addressing the terms of reference, the committee is unable to find sufficiently strong evidence to suggest that the ISG was unable to report frankly and fearlessly on what they had found. Mr Barton's evidence indicates that there were attempts to influence the ISG but there is no corroborating evidence.

4.29 From the evidence, it is clear that Mr Barton and Dr Gee discussed their concerns about the work of the ISG with the Australian Representative and Mr Quinn in Baghdad. Evidence also shows that Mr Barton raised concerns about the function of the ISG and its March report with government officials on his return to Australia in March 2004.

4.30 According to the evidence, it is likely that Dr Gee may also have alerted officials to similar concerns on his return a few weeks earlier. Dr Gee would not appear before the committee to confirm, deny or comment on Mr Barton's claims and would not provide the committee with a copy of his letter of resignation which allegedly referred to his dissatisfaction with the influence being exerted on the ISG. Government officials similarly refused to comment on Dr Gee's letter of resignation or on the meetings held between Dr Gee and the Minister for Foreign Affairs and between Mr Gee and the Secretary of Defence and other officials regarding his letter of resignation.

4.31 It is unclear how the Department of Defence or the Department of Foreign Affairs responded to information provided to them suggesting that influence was exerted on the ISG when preparing its March report. The silence from both departments indicates that there was no follow-up.

SENATOR JOHN HOGG
Chairman for the Inquiry