

The Indictment

United States v. George W. Bush et al.

by Elizabeth de la Vega

Assistant United States Attorney: Good morning, Ladies and Gentlemen. We're here today in the case of *United States v. George W. Bush et al.* In addition to President Bush, the defendants are Vice President Richard B. Cheney, former National Security Adviser Condoleezza Rice -- who's now the Secretary of State, of course -- Secretary of Defense Donald Rumsfeld, and former Secretary of State Colin Powell.

It's a one-count proposed indictment: Conspiracy to Defraud the United States in violation of Title 18, United States Code, Section 371. I'll explain the law that applies to the case this afternoon, but I'm going to hand out the indictment now, so you'll have some context for that explanation. Take as long as you need to read it, and then feel free to take your lunch break, but please leave your copy of the indictment with the foreperson. We'll meet back at one o'clock.

UNITED STATES DISTRICT COURT

UNITED STATES OF AMERICA,

) Criminal No.

Plaintiff,)

) Conspiracy to Defraud

v.

) the United States

)

GEORGE W. BUSH,

) 18 U.S.C. Section 371

RICHARD B. CHENEY,

)

CONDOLEEZZA RICE,

)

DONALD M. RUMSFELD, and)

COLIN POWELL,

)

Defendants

INDICTMENT

THE GRAND JURY CHARGES:

Introductory Allegations

At times relevant to this Indictment:

1. The primary law of the United States Federal Government was set forth in the U.S. Constitution ("Constitution"), which provides that the first branch of government is the Legislative Branch ("Congress"). Pursuant to Article I, Section 8, Congress has certain powers and obligations regarding oversight of foreign affairs, including the powers to: (1) declare war; (2) raise and support the armed forces; and (3) tax and spend for the common good.

2. Article II of the Constitution establishes the Executive Branch. The Executive Power of the United States is vested in the President, who is also the Commander in Chief of the Armed Services.

3. Defendant **GEORGE W. BUSH ("BUSH")** has been employed as President of the United States since January 20, 2001. On that day, **BUSH** took a constitutionally mandated oath to faithfully execute the Office of President and to preserve, protect, and defend the Constitution. **BUSH** is also constitutionally obligated to take care that the laws be faithfully executed.

4. As Chief Executive, **BUSH** exercised authority, direction, and control over the entire Executive Branch, which includes the White House, the Office of the Vice President, the Departments of State, Defense, and others, and the National Security Council.

5. Defendant **RICHARD B. CHENEY ("CHENEY")** has been employed as Vice President of the United States since January 20, 2001.

6. Defendant **CONDOLEEZZA RICE ("RICE")** was employed as the National Security Adviser from January 2001 to January 2005, when she became Secretary of State, a position she holds as of the date of this indictment. As National Security Adviser, **RICE** exercised direction, control, and authority over the National Security Council, which coordinates various national security and foreign policy agencies, including the Departments of Defense and State.

7. Defendant **DONALD M. RUMSFELD ("RUMSFELD")** has been employed as Secretary of Defense since January 2001.

8. Defendant **COLIN M. POWELL ("POWELL")** was employed as Secretary of State from January 2001 through January of 2005.

9. Before assuming their offices, **CHENEY, RICE, RUMSFELD** and **POWELL** took an oath to preserve, protect, and defend the Constitution.

10. As employees of the Executive Branch, **BUSH, CHENEY, RICE, RUMSFELD, and POWELL** were governed by Executive Orders 12674 and 12731. These Orders provide that Executive Branch employees hold their positions as a public trust and that the American people have a right to expect that they will fulfill that trust in accordance with certain ethical standards and principles. These include abiding by the Constitution and laws of the United States, as well as not using their offices to further private goals and interests.

11. Pursuant to the Constitution, their oaths of office, their status as Executive Branch employees, and their presence in the United States, **BUSH, CHENEY, RICE, RUMSFELD, and**

POWELL, and their subordinates and employees, are required to obey Title 18, United States Code, Section 371, which prohibits conspiracies to defraud the United States.

12. As used in Section 371, the term "to defraud the United States" means "to interfere with or obstruct one of its lawful government functions by deceit, craft, trickery, or at least by means that are dishonest." The term also means to "impair, obstruct, or defeat the lawful function of any department of government" by the use of "false or fraudulent pretenses or representations."

13. A "false" or "fraudulent" representation is one that is: (a) made with knowledge that it is untrue; (b) a half-truth; (c) made without a reasonable basis or with reckless indifference as to whether it is, in fact, true or false; or (d) literally true, but intentionally presented in a manner reasonably calculated to deceive a person of ordinary prudence and intelligence. The knowing concealment or omission of information that a reasonable person would consider important in deciding an issue also constitutes fraud.

14. Congress is a "department of the United States" within the meaning of Section 371. In addition, hearings regarding funding for military action and authorization to use military force are "lawful functions" of Congress.

15. Accordingly, the presentation of information to Congress and the general public through deceit, craft, trickery, dishonest means, and fraudulent representations, including lies, half-truths, material omissions, and statements made with reckless indifference to their truth or falsity, while knowing and intending that such fraudulent representations would influence Congress' decisions regarding authorization to use military force and funding for military action, constitutes interfering with, obstructing, impairing, and defeating a lawful government function of a department of the United States within the meaning of Section 371.

The Conspiracy to Defraud the United States

16. Beginning on or about a date unknown, but no later than August of 2002, and continuing to the present, in the District of Columbia and elsewhere, the defendants,

**GEORGE W. BUSH,
RICHARD B. CHENEY,
CONDOLEEZZA RICE,
DONALD M. RUMSFELD, and
COLIN M. POWELL,**

and others known and unknown, did knowingly and intentionally conspire to defraud the United States by using deceit, craft, trickery, dishonest means, false and fraudulent representations, including ones made without a reasonable basis and with reckless indifference to their truth or falsity, and omitting to state material facts necessary to make their representations truthful, fair and accurate, while knowing and intending that their false and fraudulent representations would influence the public and the deliberations of Congress with regard to authorization of a preventive war against Iraq, thereby defeating, obstructing, impairing, and interfering with Congress' lawful functions of overseeing foreign affairs and making appropriations.

17. **The Early Months of the Bush-Cheney Administration:** Prior to January of 2001, **BUSH, CHENEY**, and **RUMSFELD** each demonstrated a predisposition to employ U.S. military force to invade the Middle East, including, specifically, to forcibly remove Saddam Hussein.

18. Since 1992, **CHENEY** has endorsed a "bold foreign policy" that includes using military force to "punish" or "threaten to punish" possible aggressors in order to protect the United States's

access to Persian Gulf oil and to halt proliferation of weapons of mass destruction ("WMD"), a term that is customarily used to describe chemical, biological, and nuclear weapons.

19. On or about January 26, 1998, RUMSFELD and seven other future **BUSH-CHENEY** administration appointees signed a letter sent by a conservative policy institute named "Project for a New American Century" ("PNAC") to then President William Clinton, which called for U.S. military action to forcibly remove Saddam Hussein from power.

20. In January 1999, **BUSH** named **RICE** and her future Deputy National Security Adviser Stephen Hadley ("Hadley"), as his presidential-campaign foreign-policy advisers, along with future Deputy Secretary of Defense Paul Wolfowitz ("Wolfowitz") and four others who had publicly advocated forcibly removing Saddam Hussein.

21. On or before September 2000, 12 future **BUSH-CHENEY** administration appointees, including Wolfowitz, former Assistant to Vice President **CHENEY**, I. Lewis "Scooter" Libby, and Rumsfeld's long-term aide Stephen Cambone, participated in drafting "Rebuilding America's Defenses," a PNAC policy statement which asserted that the "need for a substantial American force presence in the Gulf transcends the issue of the regime of Saddam Hussein." PNAC acknowledged that its goals would take a long time to achieve "absent some catastrophic and catalyzing event--like a new Pearl Harbor."

22. Once **BUSH** became the Republican candidate in the 2000 presidential election campaign, he and **CHENEY** informed the general public that they would be reluctant to use military force and did not believe that the United States should engage in "nation-building."

23. On and after January 20, 2001, **BUSH** and **CHENEY** caused to be appointed as senior foreign policy advisors and consultants, at least thirty-four persons who had publicly endorsed the PNAC principles of United States global preeminence and use of force to "punish" or "threaten to punish" emerging threats from weapons of mass destruction ("WMD") or impediments to United States access to oil in the Middle East. Of those appointees, eighteen had also publicly advocated forcibly removing Saddam Hussein.

24. In late December 2000, **BUSH** and **CHENEY** advised outgoing President William J. Clinton and others that, among potential foreign policy issues, **BUSH's** primary concern was Iraq.

25. On February 11, 2001, **BUSH** ordered the first airstrikes since 1998 to be conducted outside of the United Nations ("UN") agreed-upon No-Fly zones, to get Saddam Hussein's "attention."

26. **The Attacks of September 11, 2001.** On September 11, 2001, nineteen men hijacked four commercial airplanes. They crashed two planes into the World Trade Towers in New York City and another into the Pentagon in Washington, DC. The fourth plane crashed in Pennsylvania. In total, nearly 3,000 people died as a result of the September 11, 2001, attacks ("9/11").

27. Shortly afterward, United States intelligence agencies determined that 9/11 was the work of the terrorist organization al Qaeda, spearheaded by Osama Bin Laden. Fifteen of the nineteen hijackers were from Saudi Arabia, two from Yemen, and two from Lebanon. This information, along with the conclusion that no evidence linked the attacks to Saddam Hussein or al Qaeda, was immediately communicated to **BUSH, CHENEY, RICE, RUMSFELD, POWELL**, and others.

28. **BUSH-CHENEY** administration members began discussing an invasion of Iraq immediately after 9/11. **BUSH, RUMSFELD** and others also assigned various subordinates, including former counterterrorism czar Richard Clarke, CIA Director George Tenet, and General Richard Meyers to look for intelligence that could justify attacking Saddam Hussein's regime.

29. On September 17, 2001, **BUSH** secretly ordered the formulation of preliminary plans for an invasion of Iraq, while admitting to his aides that no evidence existed to justify an attack.

30. On or about September 18, 2001, in response to **BUSH's** request, Clarke sent **RICE** a memo that stated: (a) the case for linking Hussein to 9/11 was weak; (b) only anecdotal evidence linked Hussein to al Qaeda; (c) Osama Bin Laden resented the secularism of Saddam Hussein; and (d) there was no confirmed reporting of Saddam cooperating with Bin Laden on unconventional weapons.

31. On September 20, 2001, **BUSH** informed British Prime Minister Tony Blair that after Afghanistan, the United States and Britain should return to the issue of invading Iraq.

32. **U.S. Intelligence Community Assessments of Risk from Iraq in Effect on November 2001.** On occasion, Executive Branch officials request assessments of current intelligence on risks posed by WMD in a given country. Although such assessments are coordinated by the Central Intelligence Agency ("CIA"), the final product incorporates the analyses, including dissenting opinions, of the intelligence branches of the Departments of State, Energy, Defense, the National Security Agency, and others, which are collectively called the Intelligence Community ("IC").

33. As of November 2001, the most recent assessment on Iraq was a December 2000 classified Intelligence Community Assessment ("ICA") called "Iraq: Steadily Pursuing WMD Capabilities." This ICA was a comprehensive update on possible Iraqi efforts to rebuild WMD and weapons delivery systems after the 1998 departure of International Atomic Energy Agency ("IAEA") representatives and UN weapons inspectors, who are collectively referred to as the United Nations Special Commission ("UNSCOM").

34. Regarding Iraq's possible nuclear program, the December 2000 NIE unanimously concluded that:

- (a) The IAEA and UNSCOM had destroyed or neutralized Iraq's nuclear infrastructure, but Iraq still had a foundation for future nuclear reconstitution;
- (b) Iraq was continuing low-level theoretical research and training, and attempting to obtain dual-use items that could be used to reconstitute its nuclear program;
- (c) if Iraq acquired a significant quantity of fissile material through foreign assistance, it could have a crude nuclear weapon within a year; if Iraq received foreign assistance, it would take five to seven years to produce enough weapons-grade fissile material for a nuclear weapon; and
- (d) Iraq did not appear to have reconstituted its nuclear weapons program.

35. **Escalation of Military Activity and Planning for Invasion of Iraq.** On November 21, 2001, **BUSH** secretly ordered preparation of a formal war plan for invading Iraq. Thereafter, for sixteen months, the **BUSH-CHENEY** administration expended substantial U.S. government funds in military activity and planning for invasion of Iraq, all without notice to, or approval by, the U.S. Congress.

36. **BUSH** did not receive an extensive briefing about possible WMD in Iraq before ordering a war plan, nor did he discuss the legitimacy of grounds for war with anyone. **BUSH** received no such briefing until December 21, 2002.

37. On or about November 27, 2001, **RUMSFELD** asked General "Tommy" Franks, head of Central Command, which supervises Middle East operations, to immediately prepare an Iraq war plan in response to **BUSH's** order.

38. Thereafter, Franks discussed numerous revised Iraq war plans with **RUMSFELD**. Between December 2001 and August 2002, **BUSH, CHENEY, RICE, RUMSFELD, POWELL**, and others held at least five lengthy meetings about Franks' plans. In August, **BUSH** ordered Franks to prepare to invade Iraq using the "Hybrid Plan," a combination of the "Running Start" and "Generated Start" plans developed previously.

39. During 2002, the United States and Great Britain increased air strikes in order to degrade Iraqi air defenses and began deploying troops to areas around Iraq.

40. On or about July 30, 2002, without approval by, or notice to, Congress, **BUSH** caused the diversion of \$700 million from Afghanistan war funds into Iraq invasion preparations.

41. On September 5, 2002, without approval by, or notice to, Congress, **BUSH** caused approximately 100 United States and British aircraft to launch ballistic missiles at Iraq's major western air-defense facility.

42. By September 12, 2002, without approval by, or notice to, Congress, **BUSH** had caused the movement of 40,000 military personnel and over 350,000 tons of equipment to areas around Iraq. Franks also ordered Central Command to be moved to Al Udeid Air Base near Doha, Qatar.

43. **Behind-the-Scenes Strategizing with British Officials:** On or before March 2002, **BUSH, RICE, Wolfowitz**, and others secretly began discussing ways to persuade the public and foreign allies to accept Bush's goal of invading Iraq, with British Prime Minister Tony Blair ("Blair") and his advisers.

44. On March 12, 2002, in Washington, DC, **RICE** met with Blair's Foreign Policy Adviser Sir David Manning and informed him of **BUSH's** problems with persuading "international opinion that military action against Iraq was necessary and justified."

45. On March 17, 2002, in Washington, DC, British Ambassador Sir Christopher Meyer advised Wolfowitz that the two countries should "wrongfoot" Saddam Hussein by seeking a UN resolution that would require the readmission of weapons inspectors with the expectation that Saddam would create a justification for war by obstructing the inspections.

46. On April 6, 2002, in Crawford, Texas, **BUSH** and Blair discussed strategies to sway public opinion regarding military action in Iraq. Blair agreed to support a United States invasion if the two countries obtained a UN resolution first.

47. In mid-July, 2002, in Washington, DC, White House officials discussed Iraq with visiting British officials. Upon their return to London, these officials reported the talks to Blair in a meeting at 10 Downing St. on July 23, 2002. Among other things, Blair's advisers suggested that he urge **BUSH** to devise a more realistic political strategy for attacking Iraq, because a desire for "regime change" would not justify military action under international law.

48. In mid-July, 2002, in Washington, DC, CIA Director Tenet and others talked about the Bush administration's intentions regarding Iraq with Sir Richard Dearlove, the head of British Intelligence.

49. On July 23, 2002, during the Downing St. meeting described above, Dearlove informed Blair that in the United States "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."

50. On July 23, 2002, British Foreign Secretary Jack Straw also noted that **BUSH** had "made up his mind to take military action." Straw said he would urge **POWELL** to persuade **BUSH** to seek a UN resolution requiring Saddam Hussein to readmit weapons inspectors, in effect, suggesting the "wrongfooting" strategy that Meyer had described to Wolfowitz.

51. **Behind-the-Scenes Efforts to Fix Intelligence Around the Policy.** Within weeks after learning from Clarke, Tenet, and others that Iraq and Saddam Hussein had no involvement with either 9/11 or al Qaeda, **RUMSFELD** caused Deputy Undersecretary for Defense Douglas Feith ("Feith") to secretly create the Counter Terrorism Group ("CTEG"), a small unit of political appointees whose mission was to find links between Iraq and al Qaeda by reviewing raw intelligence that previously had been discarded as unreliable. CTEG reported weekly to **RUMSFELD's** long-term associate Stephen Cambone, and occasionally presented information directly to Wolfowitz, thereby circumventing standard IC procedures.

52. At some time in 2002, Feith also designated political appointees to work under his supervision in the newly-created Office of Special Plans, whose purpose was to develop and package information for use in marketing the President's plan for an invasion of Iraq. In the fall of 2002, this group presented information directly to **RUMSFELD**, to **RICE's** office, and to **CHENEY's** office, thereby circumventing standard IC procedures.

53. In the spring of 2002, **CHENEY** and his former aide, I. Lewis "Scooter" Libby, began visiting CIA headquarters to question CIA agents' assessments about Iraq. **RUMSFELD** and Deputy National Security Adviser Hadley also repeatedly pressed CIA Director Tenet and his subordinates to present a stronger case against Iraq.

54. **Bush's Creation of the White House Iraq Group.** By the summer of 2002, domestic and international support for **BUSH's** plan to invade Iraq was lukewarm. At the same time, Bush's chief political strategist and Senior Adviser Karl Rove and Kenneth Mehlman, head of the White House Office of Strategic Initiatives, were beginning to coordinate the President's involvement in the November 7, 2002, congressional election. Their overall goal was to gain Republican majorities in both houses of Congress so that the President would have the greatest possible support for his policies. Rove had specifically recommended that Republicans "focus on war" as a way to win elections. Consequently, in the summer of 2002, **BUSH's** efforts to win support for an invasion of Iraq and his efforts to assist Republican congressional candidates became inextricably intertwined.

55. In the summer of 2002, **BUSH** caused the creation of the White House Iraq Group, which was cochaired by **BUSH's** long-term political operatives Karl Rove and Karen Hughes, who remained **BUSH's** close associate even though she had resigned her position as Counselor to the President. This team, also called WHIG, was largely a political and public-relations entity that included **RICE**, Hadley, President's Chief of Staff Andrew Card, President's legislative liaison Nicholas Calio, **CHENEY's** key aide and veteran Republican political strategist Mary Matalin, **CHENEY's** senior adviser Libby, and James Wilkinson, another Republican campaign consultant.

56. On or about September 6, 2002, Rove and Card publicly announced that: (a) the **BUSH-CHENEY** administration was beginning to "roll out" its case for an invasion of Iraq; (b) its public-relations campaign was specifically directed at forcing Congress to pass a resolution authorizing the President to use military force in Iraq; (c) **BUSH** wanted the resolution passed in about five weeks, before the 2002 election; and (d) in the end, it would be difficult for any legislator to vote against it.

57. **The Defendants' Massive Fraud to "Market" an invasion of Iraq.** On or about September 4, 2002, **BUSH** staged a photo opportunity with a bipartisan group of congressional leaders, after which he falsely and fraudulently announced that Iraq posed a serious threat to the safety of the

United States and the world, while concealing from Congress and the American people the material facts that: (a) he had no reasonable basis whatsoever for his assertion; (b) he had never discussed the legitimacy of the grounds for an attack against Iraq with anyone; (c) he had never extensively reviewed existing intelligence regarding any possible threat from Iraq; (d) he had not requested an updated intelligence assessment on Iraq; (e) the United States intelligence assessment then in effect stated that Iraq had neither nuclear weapons nor a nuclear weapons program; and (f) the IC had consistently reported that Iraq had no involvement in 9/11 and no relationship with al Qaeda.

58. On September 4, 2002, **BUSH** also falsely and fraudulently claimed he was beginning an "open dialogue" with the American public, with Congress, and with United States allies to decide how to respond to Iraq, while concealing the material facts that he: (a) had requested a formal plan to invade Iraq nearly a year before; (b) had been conducting significant military and nonmilitary planning and attacks against Iraq for a year; (c) had directed significant military deployment to areas around Iraq; (d) was planning a massive air assault against Iraq's air defense facility for the next day; and (e) intended to work with the UN only to create a justification to use military force against Iraq.

59. Thereafter, the defendants and WHIG executed a calculated and wide-ranging strategy to deceive Congress and the American people by making hundreds of false and fraudulent representations that were only half-true, or literally true but misleading; by concealing material facts; and by making statements without a reasonable basis and with reckless indifference to their truth, regarding, among other things:

- (a) their true intent to invade Iraq;
- (b) the extent of military buildup and force used against Iraq without notice to or approval by Congress;
- (c) their true purpose in seeking a Congressional resolution authorizing the use of military force against Iraq;
- (d) their true intent to use their involvement in seeking a UN resolution requiring Iraq to cooperate with weapons inspectors as a sham; and
- (e) their claimed justifications for invading Iraq, including but not limited to:
 - * The alleged connection between Saddam Hussein and the attacks of September 11, 2001;
 - * The alleged connection between Iraq and al Qaeda;
 - * The alleged connection between Saddam Hussein and any terrorists whose primary animus was directed towards the United States;
 - * Saddam Hussein's alleged intent to attack the United States in any way;
 - Saddam Hussein's possession of nuclear weapons and the status of any alleged ongoing nuclear weapons programs;
 - * The lack of any reasonable basis for asserting with certainty that Saddam Hussein was actively manufacturing chemical and biological weapons; and
 - *The alleged urgency of any threat posed to the United States by Saddam Hussein.

60. **Congressional Joint Resolution to Authorize Use of Force Against Iraq.** As a result of the defendants' false and fraudulent "marketing" of the President's plan to invade Iraq, on October 11, 2002, the U.S Congress, acting pursuant to its Article I constitutional authority to oversee and authorize use of military force, passed a Congressional Joint Resolution to Authorize Use of Force Against Iraq ["the Resolution"] which stated:

The President is authorized to use the Armed Forces of the United States as he determines to be necessary and appropriate in order to--

- (a) defend the national security of the United States against the continuing threat posed by Iraq; and
- (b) enforce all relevant United Nations Security Council resolutions regarding Iraq.

61. The Resolution required the President to, either before or within 48 hours after exercising the authority to use force, make available to the Senate and the House of Representatives his determination that:

(a) reliance by the United States on further diplomatic or other peaceful means alone either (1) will not adequately protect the national security of the United States against the continuing threat posed by Iraq or (2) is not likely to lead to enforcement of all relevant United Nations Security Council resolutions regarding Iraq; and

(b) acting pursuant to this resolution is consistent with the United States and other countries continuing to take the necessary actions against international terrorists and terrorist organizations, including those nations, organizations or persons who planned, authorized, committed or aided the terrorists attacks that occurred on September 11, 2001.

62. The Resolution also required the President to, at least every 60 days, present Congress a report on "matters relevant to this joint resolution."

63. In furtherance of the above-described conspiracy, the defendants and their coconspirators committed and caused to be committed the following overt acts:

Overt Acts

A. On December 9, 2001, **CHENEY** announced on NBC's *Meet the Press* that "it was pretty well confirmed" that lead 9/11 hijacker Mohamed Atta had met the head of Iraqi intelligence in Prague in April 2001, which statement was, as **CHENEY** well knew, made without reasonable basis and with reckless disregard for the truth, because it was based on a single witness's uncorroborated allegation that had not been fully investigated by U.S. intelligence agencies.

B. On July 15, 2002, **POWELL** stated on Ted Koppel's *Nightline*: "What we have consistently said is that the President has no plan on his desk to invade Iraq at the moment, nor has one been presented to him, nor have his advisors come together to put a plan to him," which statement was deliberately false and misleading in that it deceitfully implied the President was not planning an invasion of Iraq when, as **POWELL** well knew, the President was close to finalizing detailed military plans for such an invasion that he had ordered months previously.

C. On August 26, 2002, **CHENEY** made numerous false and fraudulent statements including: "Simply stated there is no doubt that Saddam Hussein now has weapons of mass destruction. There is no doubt that he is amassing them to use against our friends, against our allies, and against us," when, as **CHENEY** well knew, this statement was made without reasonable basis and with reckless indifference to the truth in that the IC's then prevailing assessment was that Iraq had neither nuclear weapons nor a reconstituted nuclear weapons program.

D. On September 7, 2002, appearing publicly with Blair, **BUSH** claimed a recent IAEA report stated that Iraq was "six months away from developing a [nuclear] weapon" and "I don't know what more evidence we need," which statements were made without basis and with reckless indifference to the truth in that: (1) the IAEA had not even been present in Iraq since 1998; and (2) the report the IAEA did write in 1998 had concluded there was no indication that Iraq had the physical capacity to produce weapons-usable nuclear material or that it had attempted to obtain such material.

E. On September 8, 2002, on *Late Edition with Wolf Blitzer*, **RICE** asserted that Saddam Hussein was acquiring aluminum tubes that were "only suited" for nuclear centrifuge use, which statement was deliberately false and fraudulent, and made with reckless indifference to the truth in that it omitted to state the following material facts: (1) the U.S. intelligence community was deeply

divided about the likely use of the tubes; (2) there were at least fifteen intelligence reports written since April 2001 that cast doubt on the tubes' possible nuclear-related use; and (3) the U.S. Department of Energy nuclear weapons experts had concluded, after analyzing the tubes's specifications and the circumstances of the Iraqis' attempts to procure them, that the aluminum tubes were not well suited for nuclear centrifuge use and were more likely intended for artillery rocket production.

F. On September 8, 2002, **RUMSFELD** stated on *Face the Nation*: "Imagine a September 11th, with weapons of mass destruction. It's not three thousand, it's tens of thousands of innocent men, women and children," which statement was deliberately fraudulent and misleading in that it implied without reasonable basis and in direct contradiction to then prevailing intelligence that Saddam Hussein had no operational relationship with al Qaeda and was unlikely to provide weapons to terrorists.

G. On September 19, 2002, **RUMSFELD** told the Senate Armed Services Committee that "no terrorist state poses a greater or more immediate threat to the security of our people than the regime of Saddam Hussein," which statement was, as Rumsfeld well knew, made without reasonable basis and with reckless indifference to the truth in that: (1) Hussein had not acted aggressively toward the United States since his alleged attempt to assassinate President George H. W. Bush in 1993; (2) Iraq's military forces and equipment were severely debilitated because of UN sanctions imposed after the 1991 Gulf War; (3) the IC's opinion was that Iraq's sponsorship of terrorists was limited to ones whose hostility was directed toward Israel; and (4) Iran, not Iraq, was the most active state sponsor of terrorism.

H. On October 1, 2002, the defendants caused the IC's updated classified National Intelligence Estimate to be delivered to Congress just hours before the beginning of debate on the Authorization to Use Military Force. At the same time, the defendants caused an unclassified "White Paper" to be published which was false and misleading in many respects in that it failed to include qualifying language and dissents that substantially weakened their argument that Iraq posed a serious threat to the United States.

I. On October 7, 2002, in Cincinnati, Ohio, **BUSH** made numerous deliberately misleading statements to the nation, including stating that in comparison to Iran and North Korea, Iraq posed a uniquely serious threat, which statement **BUSH** well knew was false and fraudulent in that it omitted to state the material fact that a State Department representative had been informed just three days previously that North Korea had actually already produced nuclear weapons. The defendants continued to conceal this information until after Congress passed the Authorization to Use Military Force against Iraq.

J. Between September 1, 2002, and November 2, 2002, **BUSH** traveled the country making in excess of thirty congressional-campaign speeches in which he falsely and fraudulently asserted that Iraq was a "serious threat" which required immediate action, when as he well knew, this assertion was made without reasonable basis and with reckless indifference to the truth.

K. In his January 28, 2003 State of the Union address, **BUSH** announced that the "British have recently learned that Iraq was seeking significant quantities of uranium from Africa" which statement was fraudulent and misleading and made with reckless disregard for the truth, in that it falsely implied that the information was true, when the CIA had advised the administration more than once that the allegation was unsupported by available intelligence.

L. In a February 5, 2003, speech to the UN, **POWELL** falsely implied, without reasonable basis and with reckless disregard for the truth, that, among other things: (1) those who maintained that Iraq was purchasing aluminum tubes for rockets were allied with Saddam Hussein, even though **POWELL** well knew that both Department of Energy nuclear weapons experts and State

Department intelligence analysts had concluded that the tubes were not suited for nuclear centrifuge use; and (2) Iraq had an ongoing cooperative relationship with al Qaeda, when he well knew that no intelligence agency had reached that conclusion.

M. On March 18, 2003, **BUSH** sent a letter to the Speaker of the House of Representatives and the President Pro Tempore of the Senate which asserted that further reliance on diplomatic and peaceful means alone would not either: (1) adequately protect United States national security against the "continuing threat posed by Iraq" or (2) likely lead to enforcement of all relevant UN Security Council resolutions regarding Iraq, which statement was made without reasonable basis and with reckless indifference to the truth in that, as **BUSH** well knew, the U.S. intelligence community had never reported that Iraq posed an urgent threat to the United States and there was no evidence whatsoever to prove that Iraq had either the means or intent to attack the U.S. directly or indirectly. The statement was also false because, as **BUSH** well knew, the UN weapons inspectors had not found any weapons of mass destruction in Iraq and wanted to continue the inspection process because it was working well.

N. In the same March 18, 2003 letter, **BUSH** also represented that taking action pursuant to the Resolution was "consistent with continuing to take the necessary actions against international terrorists and terrorist organizations, including those nations, organizations or persons who planned, authorized, committed, or aided the terrorists attacks that occurred on September 11, 2001," which statement was entirely false and without reasonable basis in that, as **BUSH** well knew, Iraq had no involvement with al Qaeda or the terrorist attacks of September 11, 2001.

All in violation of Title 18, United States Code, Section 371.
A TRUE BILL

[Note: This is not an actual indictment]

Assistant United States Attorney: Ladies and Gentlemen, we're going to spend the afternoon discussing the law that applies to your consideration of the indictment...

The full discussion is omitted in this excerpt, but, in brief, this is the legal question you will be deciding:

Is there probable cause to believe that the defendants used deceit, craft, trickery, dishonest means -- including lies, false pretenses, misrepresentations, deliberate omissions, half-truths, false promises, and statements made with reckless indifference to their truth -- to obstruct, impede, or interfere with Congress' lawful government function of overseeing foreign affairs, relating to the invasion of Iraq?

We'll see you all tomorrow at 9:00 a.m. Our witness tomorrow will be an FBI agent. She's from Boston, but we should be able to get by without a translator.

Have a good evening.

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