

MEMORANDUM

To: Ambassador Crocker
From: Manuel Miranda, Office of Legislative Statecraft
CC: ALCON
Date: February 5, 2008
Re: **Departure Assessment of Embassy Baghdad**

Introduction

As I prepare to sign out after a year with the State Department, I feel it my last duty to offer you my assessment of what I observed. Please accept this assessment in that spirit. The presence of so many Section 3161 temporary direct hires in various areas of expertise in the Embassy is a unique opportunity for the evaluation and oversight of the Foreign Service and the State Department's bureaucracy and competence, whether it is a Service at War or Peace.

We all have opinions. If there is any doubt of the sincerity of mine, I am ready to share to list the names of those scores of other 3161's who share it, each from the vantage point of their areas of expertise and particular experience in the Embassy.

I have kept my observations to the areas that I have most directly observed as Senior Advisor for Legislative Framework in the Iraq Reconstruction Management Office and the Embassy's Rule of Law community, and as Director of the Office for Legislative Statecraft in the Political Section. I apply to this assessment my background as a former counsel to the Senate Majority Leader and as a student of legal institutions, and, as importantly, as a lawyer with 12 years experience in sovereign government negotiations, comparative and international law, and the legal framework and conditions needed for foreign direct investment in energy infrastructure and domestic economic progress and stability in developing democracies.

Nothing in this assessment is intended to be critical of General Petraeus, his leadership, his staff, the efforts of the Coalition forces in Iraq, or the success of the security component of the "Surge" initiative, now one year old. Nothing in this assessment is intended to cast doubt on the diplomatic strengths of the Foreign Service in Iraq. Nothing in this assessment should be read as critical of the hundreds of civilian men and women, of all ages and backgrounds, who work in Iraq tirelessly and at great personal sacrifice of their careers and family lives, and the many at lower levels of internal management who support us. Although my assessment is limited to certain areas of expertise, it is applicable Embassy-wide.

I should point out that I support America's mission in Iraq, while fully recognizing our many errors over time. I support the President's policy that ignores the historic stereotypes of the Middle East and offers the region a culture of liberty protected by responsible government and the rule of law. I support a long-term

American military presence in Iraqi bases, welcomed by the overwhelming majority of Iraqis and a democratically-elected government, as a means of bringing peace and stability to the region, as we did in Europe and the Far East. History may recognize this end as singularly worthy of the sacrifice that America's sons and daughters have made. I believe, however, that the potential for this peace requires the progress of Iraqi society and the confidence of the Iraqi people in their government.

That civilian progress, and the *Pax Americana*, will not be achieved with the Foreign Service and the State Department's bureaucracy at the helm of America's number one policy consideration. You are simply not up to the task, and many of you will readily and honestly admit it. I believe that a better job can be done. It is simply that we have brought to Iraq the worst of America – our bureaucrats – and failed to apply, as President Roosevelt once did, the high-caliber leadership class and intellectual talent, whose rallying has defined all of America's finest hours.

Summary

America's success in Iraq requires pacifying the country and assisting its government to inspire the confidence of Iraq's people. America can be confident that the former task is in good hands, but the latter effort will fail if we continue to rely on the State Department and the Foreign Service to lead or manage our civilian support efforts. As we did with the military Surge, America and Iraq would be well served by retaining our diplomats to do the work of diplomacy, but putting the effort to stand up the GOI in more competent hands. This is especially true in the areas of legislative reform and the rule of law. But it is also true in other areas.

At stake, as a whole, is not only the success of the mission, the lives of Americans and the future of a country for which we must now bear some responsibility, but also hundreds of millions of taxpayer dollars being wasted and poorly managed.

GENERAL ASSESSMENT

After a year at the Embassy, it is my general assessment that the State Department and the Foreign Service is not competent to do the job that they have undertaken in Iraq. It is not that the men and women of the Foreign Service and other State Department bureaus are not intelligent and hard-working, it is simply that they are not equipped to handle the job that the State Department has undertaken. Apart from the remarkable achievements of Coalition forces in the pacification of Iraq, the few civilian accomplishments that we are presently lauding, including the debathification law and the staffing of PRT's are a thin reed. It was regrettable to see the President recently grab on to it.

The purpose of the Surge, now one year old, was to pacify Iraq to allow the GOI to stand up. The State Department has not done its part coincident with the Commanding General's effort. This is not the fault of intelligent and hard

working individuals skilled at the functions of the "normal embassy." The problem is institutional. The State Department bureaucracy is not equipped to handle the urgency of America's Iraq investment in blood and taxpayer funds. You lack the "fierce urgency of now."

Foreign Service officers, with ludicrously little management experience by any standard other than your own, are not equipped to manage programs, hundreds of millions in funds, and expert human capital assets needed to assist the Government of Iraq to stand up. It is apparent that, other than diplomacy, your only expertise is your own bureaucracy, which inherently makes State Department personnel unable to think outside the box or beyond the paths they have previously taken.

Inadequate Management Profile

As managers, the Embassy's leaders may be talented regionalists and diplomats, but they do not have the leadership profiles or management experience called for by the nation's high sacrifice of blood and treasure. It has been impossible, at any time this year, to believe that the pacification and standing up of Iraq is America's No. 1 policy consideration by observing the leadership of the U.S. Embassy, the State Department's negligent manner of making decisions, or the management priorities and changing goal posts of the State Department and Embassy leadership.

In particular, neither the State Department nor its Foreign Service is competent to manage and lead personnel who have been hired and brought to Iraq as experts, or to synchronize expertise, funds, and programs to support the GOI. As managers, the Embassy's leaders do not have the leadership profiles or management experience required by the nation's high sacrifice of blood and treasure.

The American people would be scandalized to know that, throughout the Winter, Spring and Summer of 2007, even while our Congress debated the Iraq question and whether to commit more troops and more funds, the Embassy was largely consumed in successive internal reorganizations with contradictory management and policy goals. In some cases, administrative and management goals that occupied our time reflected the urgencies and priorities that could only originate in Foggy Bottom and far-removed from the reality or urgencies on the ground. The fact that over 80 people sit in Washington, second-guessing and delaying the work of the Embassy, many who have been to Baghdad, is an embarrassment alone.

Likewise, the State Department's culture of delay and indecision, natural to any bureaucracy, is out of sync with the urgency felt by the American people and the Congress in furthering America's interests in Iraq. The delay in staffing the Commanding General's Ministerial Performance initiative (from May to the present) would be considered grossly negligent if not willful in any environment.

I would venture to say that if the management of the Embassy and the State Department's Iraq operation were judged by rules that govern business judgment

and asset waste in the private sector, the delays, indecision, and reorganizations over the past year, would be considered willfully negligent if not criminal. In light of the nation's sacrifice, what we have seen this past year in the Embassy is incomprehensible.

Most emblematic of the State Department's weakness in basic management was its decision to dismantle and cannibalize the Iraq Reconstruction Management Office rather than to strengthen it and to fix its problems, among them inadequate management by Foreign Service officers placed at the helm. The fact that this massive reorganization was undertaken at the critical time that it did, and even while the Commanding General was requesting greater civilian support of the GOI has to join the list of fatal errors that we have made, this time under the State Department's ledger.

The Embassy is also severely encumbered by the Foreign Service's built-in attention deficit disorder, with personnel and new leaders rotating out within a year or less. Incumbent in this constant personnel change is a startling failure to manage and retrieve information. The Embassy is consequently in a constant state of revisiting the same ground without the ability to retrieve information of past work and decisions. This misleads new personnel at senior levels into the illusion of accomplishment and progress. This illusionary process of "changing goal posts," as one senior official put it, helps to explain why so few goals are scored by us on those benchmarks codified by Congress, the President, or by the GOI itself.

Most notable, there is a near complete lack of strategic forethought or synchronization between Embassy staffing and program initiatives and funding. This is also true of PRTs. Only the military takes seriously the Joint Campaign and its metrics of achievement, while State Department leaders use it only when advantageous.

Overall, the lack of coordination and leadership in key areas (including Rule of Law activity, PRT's, and others), upon which the Special Inspector General for Iraq Reconstruction has repeatedly commented, is real and pervasive. The waste of taxpayer funds resulting from such mismanagement is something that only a deeply entrenched bureaucracy with a unionized attitude, like the Foreign Service and Main State, could find acceptable.

False premises

This past year, the State Department and the Embassy has been led by two misguided premises: first, the obsessive aim that the Embassy be turned into a "normal embassy" and, second, that the State Department cannot be faulted for things that the GOI is not doing, i.e. "the Iraqis need to do this themselves."

The impulse to transform the Embassy into a "normal embassy" displays most starkly the State Department bureaucracy's endemic problems, including inflexibility and the inability to understand alternative management principles, use

expertise and funds in any manner outside the State Department's normal experience, the inability to respond to the urgency of America's presence in Iraq, and the inclination to make excuses and blame the Embassy's failures on others.

The impact of the obsession to establish a normal embassy was most vivid this Spring as four contradictory administrative initiatives took up the time of the Embassy's leaders and senior consultant's: the sunset of the Iraq Reconstruction Management Office and the establishment of its successor, the staffing limitations imposed by the publication and application of Main State's Kennedy Report, the Embassy's preparation for the move to the New Embassy Compound, and the Commanding General's call for a civilian Surge.

At the keystone moment that America's leaders and people were pained over the debate of our continued national sacrifice, the Baghdad Embassy was doing a bureaucratic imitation of the Keystone Cops, counting chairs and desks and reviewing decisions over and over again.

The second mantra, that political success in Iraq depends entirely on Iraqis, amounts to little more than excuse-making by people who cannot imagine alternative paths and who are limited by their own limited experience in government and economic development.

The Foreign Service's gripping culture of excused inaction is also framed and exacerbated by the paralyzing question of the "buy in" of Iraqi officials in some of the areas in which they most need, and that we can offer, assistance. The obvious reality that nothing can happen without Iraqi support is over-used as an excuse by bureaucrats who simply do not have the ability of conceiving or executing scenarios of institution-building assistance that does not comport with their past experience and over-cautious diplomatic instincts.

Simply put, Foreign Service officers are not equipped to manage process-oriented assistance programs and yet we have put into their hands hundreds of millions of dollars. Any American graduate school study group could do better.

The excuse-making tendency of the Foreign Service is most evident in the areas of meeting Legislative Benchmarks and Rule of Law objectives, which I address in Specific Assessments below.

In this excuse-making culture, the State Department has been an albatross around the neck of the Coalition command, whose leaders and personnel have a leadership profile radically opposite to the State Department's. Among other things, the State Department has failed to assist Coalition initiatives by delaying or failing to supply the civilian expertise needed in a thoughtful and timely manner and also delaying decisions on funding and staffing vital to GOI (and our) success.

One example of excuse-making, is blaming the failure to accomplish the 18 benchmarks on regional history, the hostility of Iraq's neighbors, and on the GOI.

It will be interesting if Congress will allow the State Department to slide by any deeper oversight than that in March as they did in September. In ordinary time, I have seen oversight and accomplishment reviews distracted by Embassy reports on what appears to be achievement, without ever any focus or evaluation of what we are failing to do.

Information Flow and Management

Another cavity in the Foreign Service culture is in the flow and management of information in both a greater and lesser degree.

In the greater degree of importance, the Foreign Service culture has created a situation where important information is kept from vital decision-makers. In my year in Baghdad, I have seen the Embassy intentionally keep information from:

- The White House and relevant policy-making agencies
- The State Department in Washington (because “we cannot trust that they will not leak to the press”), and
- The Commanding General (because “we do not wash our dirty laundry in public”.)

I have also witnessed a relentless culture of information-hording within the Embassy. The dysfunctional failure to communicate and share information is beyond anything that can be imagined under any circumstances. It is endemic of a bureaucracy that is far beyond its pale of competence and experience.

Needless to say, I have also witnessed the failure to coordinate and communicate with allies and international organizations.

In the lesser degree, despite the countless and deeply-researched written products created by the Embassy over 5 years, and by contractors who are paid millions of dollars for the work product, the Embassy has no system in place to retrieve vital information about Iraq, its government and laws, and past experiences and decisions. In light of the turnover in personnel, this lack of management forethought is an expensive negligence.

Embassy (and Coalition) personnel are in a constant state of information-gathering that relies mostly on luck and personality, and is always retaking the same ground. One of the most commonly heard phrases in the Embassy has to be “I had no idea that document existed,” or “I did not know that was done.”

Curiously, a memo was circulated asking us to store all administrative correspondence concerning the New Embassy Compound. No similar attempt at archiving important documents has been organized and documents are often being discarded for lack of interest or outlet. More importantly, previous work product is generally unavailable as a resource in almost all areas of expertise. Similarly,

there has been no attempt to coordinate and collect translations, often being produced several times.

This problem could be easily solved with dedicated staffing. The significance of our work in Iraq would suggest that the State Department might need to think outside its box on an information management system that any medium-sized law firm would have.

SPECIFIC ASSESSMENTS

Legislative Benchmarks

All experience in Rule of Law development in new democracies through the last sixty years points to the need to apply significant resources to law-making and law-making institutions. Law-making, except for a few isolated instances of interest in particular legislative reforms pertaining to the judiciary, has not been a focal point of the Baghdad Embassy's massive and expensive Rule of Law effort. While a few contractors have in the past made a few contributions in developing Parliament offices, these activities have been far removed from the Embassy.

Despite the political primacy of legislative reform to the success of the GOI and America's investment, since CPA there has been no concerted effort in the Embassy to support legislative reform in any manner, let alone a qualified and concerted manner.

I was hired to lead an office as close as the Embassy has come to such an effort, approved by the Iraq Reconstruction Management Office in October 2006. After countless re-approvals in the course of a year, at my departure the office, which the Embassy has listed as a Rule of Law accomplishment, is still not fully functional or funded.

Again, the failure lies in the State Department and Foreign Service's inability to think outside its box. The Embassy has disguised its failure by blaming the Iraqis for failing to make progress. "They have to do it themselves." The experience of our own government is completely contrary to this mantra.

If any 100 or 100,000 Washingtonians were gathered and told that an Energy Bill or any Bill should be left to the American Congress or the American government to do, --- that they should do it themselves, -- the result would be uproarious laughter. Legislative practice, i.e. lobbying, is entirely devoted to making sure that legislators have the information and resources they need to pass laws desired on a timely basis. In the case of Iraq, America is not lacking in talented legal minds.

Only American bureaucrats, without practical legal or business experience, who spend their careers abroad, could fail to understand the role of legislative practice in our own country, or the need for a concerted, professional support effort in our Embassy in Baghdad. We do this for Electricity and other vital sectors. Such an effort would focus on law-making institutions as well as quality legal product and

their adoption. Instead, we have a normal political section approach that merely reports on legislative progress and makes amateur attempts at offering input.

It is for good reason that one Minister forcefully asked that he no longer be sent Embassy political officers to speak about legislation, and would only meet with a credentialed lawyer.

For example, the Iraqi State Council is the most legitimate institution in the Iraqi law-making process. Yet from 2003 through 2007, not a single American dollar was spent to develop the capacity of that institution to process legislation in a timely fashion. Even while Congress imposed legislative benchmarks this past year, the Embassy and Main State delayed funds approved for the assistance of this and other vital Iraqi legislative offices. One reason for this is that you simply do not know better.

The lack of such a focus has serious consequences. You, Mr. Ambassador, were at post for several months before you asked for a briefing on the State Council's role. The immediate past Political Section head was one month from her departure before she requested a similar briefing.

In short, despite millions of dollars spent on assisting the GOI's capacity in many less or equally crucial areas, the contributions of the Embassy in achieving Iraq's legislative agenda of over 60 constitutionally required reforms and Congress's own legislative benchmarks for success has been negligible or ham-fisted.

An example is the Embassy's history with the draft oil law(s). Any experienced international lawyer could have judged in 15 seconds or less that the draft that your predecessor checked off as if done, was one in which Iraqis were not invested. This has repeated itself again and again.

Our approach has assumed that Iraqi lawyers, who work on drafts after politicians have their say, are ignorant and careless. As a result, GOI officials involved in legislation have been justified in dismissing our political demands.

Rule of Law

In addition to carving out any focus on law-making, our Rule of Law effort in Iraq has mostly ignored legal culture institutions that address underlying requirements for the very success of the rule of law, such as the confidence of citizens, a preventive rather than punitive program against corruption, and the qualifications of the legal profession.

As Aswad Al-Minshidi, the president of the Iraq Bar put in a letter to President Bush:

“America's Rule of Law effort in Iraq has focused almost entirely on training police, building prisons, and supporting prosecutions. This is understandable. These areas are important to security but they represent a policeman's and prosecutor's definition of what Rule of Law means. This definition is limited to law enforcement.... [O]ur legal culture is in need of assistance and America's

millions of dollars have done little to assist our institutions...If you think that "implanting" the Rule of Law in Iraq is limited to your current Rule of Law efforts, then you are receiving poor advice..."

With a few exceptions by the military and a few other recent efforts, we have ignored the Iraqi Bar, the 26 law schools and the development of the culture beyond the areas associated with arrest and prosecution. This has been extraordinarily short sighted, and is explained only in part by the fact that we have left our Rule of Law efforts to be led by assistant U.S attorneys with very narrow past experience.

This failure is accented by the little relative cost of any effort in these areas as compared to the hundreds of millions America has spent on assisting with police, prosecution and prisons. A legal comparativist scholar will someday document the opportunities we had and lost to enhance the legal culture of Iraq.

Conclusion

Two *Washington Post* articles caught my attention this past year. One reported on a memo of yours noting that the Embassy was staffed with young and inexperienced people. Presumably you were referring to the Foreign Service personnel at the Embassy and not to the experienced experts still at the Embassy at the time in larger numbers than now. A more recent article, reported on the rebellion of the Foreign Service to serve in Iraq. Both articles disguise a false premise.

America's success in Iraq will not be had with older or more Foreign Service officers doing the little that the Foreign Service is competent to do. The last thing that we need in Baghdad is more Foreign Service officers. We need experts, experienced human capital managers, and leaders who can think outside the box to synchronize staffing, funding, and urgent needs.

In addition, you should that there are no lack of other Americans who are willing to come to Iraq. At the Embassy today, there are Americans who have foregone incomes five times greater than what they make now and who put aside careers to serve. If I thought the State Department were competent, I would have been glad to sign on for more than a year. Recruitment is not your problem. Your system of staffing is.

The State Department would do the nation a service if it admits that it is not equipped to the job you have undertaken. Our Congress has an obligation to give you the oversight our national sacrifice demands. We are now living our latest error.

As a graduate of Georgetown's School of Foreign Service, I was proud last year when I swore in at the State Department. By the middle of 2007 that changed. I was ashamed for my country. I repeat, however, that my observations are not that

you all are anything but wonderful Americans, it is that you are doing a job for which you are not prepared as a bureaucracy or as leaders.

The American and Iraqi people deserve better.