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Bush Authorized Leak to Times, Libby Told Grand Jury

New York Sun Web Exclusive

By JOSH GERSTEIN - Staff Reporter of the Sun
April 6, 2006 *updated 9:02 am EDT*

A former White House aide under indictment for obstructing a leak probe, I. Lewis Libby, testified to a grand jury that he gave information from a closely-guarded "National Intelligence Estimate" on Iraq to a New York Times reporter in 2003 with the specific permission of President Bush, according to a new court filing from the special prosecutor in the case.

The court papers from the prosecutor, Patrick Fitzgerald, do not suggest that Mr. Bush violated any law or rule. However, the new disclosure could be awkward for the president because it places him, for the first time, directly in a chain of events that led to a meeting where prosecutors contend the identity of a CIA employee, Valerie Plame, was provided to a reporter.

Mr. Fitzgerald's inquiry initially focused on the alleged leak, which occurred after a former ambassador who is Ms. Plame's husband, Joseph Wilson, wrote an op-ed piece in the New York Times questioning the accuracy of statements Mr. Bush made about Iraq's nuclear procurement efforts in Africa.

No criminal charges have been brought for the leak itself, but Mr. Libby, a former chief of staff to Vice President Cheney, was indicted in October on charges that he obstructed the investigation, perjured himself in front of the grand jury, and lied to FBI agents who interviewed him. Mr. Libby, who resigned from the White House and pleaded not guilty, is scheduled to go on trial in January 2007.

In a court filing late Wednesday responding to requests from Mr. Libby's attorneys for government records that might aid his defense, Mr. Fitzgerald shed new light on Mr. Libby's claims that he was authorized to provide sensitive information to the Times reporter, Judith Miller, at a meeting on July 8, 2003.

"Defendant testified that he was specifically authorized in advance of the meeting to disclose the key judgments of the classified NIE to Miller on that occasion because it was thought that the NIE was 'pretty definitive' against what Ambassador Wilson had said and that the vice president thought that it was 'very important' for the key judgments of the NIE to come out," Mr. Fitzgerald wrote.

Mr. Libby is said to have testified that "at first" he rebuffed Mr. Cheney's suggestion to release the information because the estimate was classified. However, according to the vice presidential aide, Mr. Cheney subsequently said he got permission for the release directly from Mr. Bush. "Defendant testified that the vice president later advised him that the president had authorized defendant to disclose the relevant

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portions of the NIE," the prosecution filing said.

Mr. Libby told the grand jury that he also sought the advice of the legal counsel to the vice president, David Addington, who indicated that Mr. Bush's permission to disclose the estimate "amounted to a declassification of the document," according to the new court papers.

One of the facts Mr. Libby said he planned to disclose to Ms. Miller was that the estimate, produced in October 2002, concluded that Iraq was "vigorously trying to procure uranium." This contention was sharply at odds with Mr. Wilson's op-ed piece which argued there was no evidence of such a procurement effort, at least on a trip he took to Africa at the CIA's request.

Mr. Bush's alleged instruction to release the conclusions of the intelligence estimate appears to have been squarely within his authority and Mr. Fitzgerald makes no argument that it was illegal. While Mr. Libby said he gave that information "exclusively" to the Times reporter at their breakfast meeting at the St. Regis Hotel in Washington, many of the findings of the estimate were formally declassified and discussed at a White House press briefing ten days later, on July 18, 2003.

The court papers filed by Mr. Fitzgerald do not make clear whether Mr. Bush knew the disclosure was destined for Ms. Miller, though they indicate Mr. Cheney knew that fact. Mr. Libby is also said to have testified that five days late Mr. Cheney authorized the release to the press of information about a cable about Mr. Wilson's strip.

Messrs. Bush and Cheney have been interviewed by Mr. Fitzgerald and his staff, but it is not known how their accounts of the events compared to that of Mr. Libby.

In an interview with Fox News in February, Mr. Cheney, who has a reputation for secrecy, acknowledged that he has sometimes pressed for the official release of classified records.

"I've certainly advocated declassification and participated in declassification decisions," he said.

Asked if he had ever "unilaterally" declassified material, Mr. Cheney replied, "I don't want to get into that. There is an executive order that specifies who has classification authority, and obviously focuses first and foremost on the president, but also includes the vice president."

While prosecutors initially said Mr. Libby was the first government official to disclose Ms. Plame's identity, it subsequently emerged that a Washington Post reporter, Bob Woodward, learned earlier about her CIA employment from another government official. Neither Mr. Woodward nor Ms. Miller wrote about Ms. Plame at the time. Another journalist, Robert Novak, first disclosed the employment of Mr. Wilson's wife in a syndicated column released on July 14, 2003. The columnist based his story on interviews with Mr. Bush's top political adviser, Karl Rove, and another official who has not been officially identified.

Prosecutors argued that Mr. Libby covered up his role in the disclosures because "he knew the White House had publicly staked its credibility on there being no White House involvement in the leaking of information about Ms. Wilson." They also noted that Mr. Bush publicly declared he would fire anyone found to have leaked classified information.

The new court filing quotes from handwritten suggestions Mr. Libby gave to the

White House press secretary, Scott McClellan, urging the spokesman to proclaim the vice presidential aide's innocence with the same vigor that the press secretary previously denounced as "ridiculous" suggestions that Mr. Rove might have had a hand in leaking Ms. Plame's identity.

Mr. Libby's note, as typed up by the prosecution, reads like a stanza of verse:

"People have made too much of the difference in
How I described Karl and Libby
I've talked to Libby.
I said it was ridiculous about Karl
And it is ridiculous about Libby.
Libby was not the source of the Novak story.
And he did not leak classified information."

Mr. McClellan did not adopt the talking points verbatim, but did tell reporters later that Messrs. Rove and Libby "assured me that they were not involved in this."

Mr. Rove has not been charged with a crime, but remains under investigation by Mr. Fitzgerald's office.

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