

# THE VALUE OF ADVICE AND CONSENT: CLAPPER NOMINATION

I'm going to have more to say about James Clapper's nomination to be Director of National Intelligence. But for now I want to point out similarities between how the Administration's treated that nomination and its involvement in primaries.

Two things make James Clapper's nomination anything but a done deal.

Most important to us little people is Clapper's certainty in 2003 that we hadn't found Iraqi WMD because Saddam managed to move all of them to Syria before US troops secured them.

The director of a top American spy agency said Tuesday that he believed that material from Iraq's illicit weapons program had been transported into Syria and perhaps other countries as part of an effort by the Iraqis to disperse and destroy evidence immediately before the recent war. The official, James R. Clapper Jr., a retired lieutenant general, said satellite imagery showing a heavy flow of traffic from Iraq into Syria, just before the American invasion in March, led him to believe that illicit weapons material "unquestionably" had been moved out of Iraq.

"I think people below the Saddam Hussein-and-his-sons level saw what was coming and decided the best thing to do was to destroy and disperse," General Clapper, who leads the National Imagery and Mapping Agency, said at a breakfast with reporters.

Obama wants a man with a history of not

questioning his own assumptions to take on a position invented, at least partly, to make sure the intelligence community questions its assumptions to prevent failures like 9/11 and the Iraq War.

The more important problem to the Senate Intelligence Committee—that is, to those with a vote on the matter—is that Clapper has a history of advocating for continued strong military control over intelligence functions, a view that puts him at odds with Dianne Feinstein and Kit Bond and others on SSCI. As Josh Rogin reports,

Yesterday, we reported that the leaders of the Senate Intelligence Committee were resisting the nomination of **James Clapper** to become the next director of national intelligence because he had argued in an April 28 memo against strengthening that very position.

Today, we have obtained a copy of the memo (pdf), which is entitled, “Discussion Draft: Provisions for FY2010 Intelligence Authorization Act that would expand DNI authorities over leadership and management of DOD’s intelligence components.”

The paper, written by Clapper’s staff, but not signed by Clapper himself, spells out 17 concerns that the Pentagon apparently had with the intelligence policy bill making its way through Congress. It’s clearly an attempt to defend the secretary of defense’s authority over defense intelligence agencies against what the memo’s writers see as encroachment by the Office of the DNI.

[snip]

The administration sees Feinstein’s and Bond’s objections as part of their overall push for greater committee jurisdiction over defense department assets. For their part, Hill sources

lament that Clapper's memo seemed to be criticizing a bill that they thought had already been negotiated with the administration.

Regardless, Feinstein said she won't move the nomination until her bill gets passed and her concerns are addressed. She meets with Clapper this week.

Read the whole Rogin post—and his earlier post on it—to understand why this is not just about a difference of opinion on the role of DNI and DOD in intelligence, but also about the Administration's ongoing reluctance to allow Congress to exercise full oversight of the intelligence community.

The point is, the folks who need to approve Clapper's nomination are none too thrilled about him and it will be very easy to spin a narrative about why he's the wrong person for the job.

Clapper, having learned the lesson of Dawn Johnsen, refused to agree to the Administration's request that he resign from his current position before being nominated.

The White House asked Director of Defense Intelligence James Clapper to **step down** from his job before nominating him as DNI, in order to help allay concerns about his military background. But **Clapper politely refused**. He does not want to be out of a job if his confirmation hearing doesn't go well.

Clapper may have once believed in the tooth fairy and Iraqi WMDs in Syria, but he also may have a more realistic view of his chances than the Administration.

All of which is to say that the Administration picked a guy for a Senate-confirmed position while ignoring the strong possibility that the Senate really didn't want to confirm him. Ambinder explains why the Administration settled

on Clapper in spite of SSCI's dislike for him as a candidate.

Not only was SecDef Robert Gates happy with Clapper's appointment, he recommended Clapper after Obama's preferred candidates, Leon Panetta and Chuck Hagel, passed on the job.

That is, Obama picked Clapper because no one else—the better candidates—would do the job.

But let's recall how we got here. Clapper got nominated to be DNI because Obama ousted Dennis Blair some weeks back. There were definitely tensions between Blair and the Administration. But just as importantly, Blair served as a scapegoat for what was billed (rightly or wrongly) as an intelligence failure to prevent the Christmas Day undie-bomber attack. But remember—Blair wasn't even the most appropriate person to pay for that failure; National Counterintelligence Center Director Michael Leiter was.

Now, several people—like Marc Ambinder and Jeff Stein—seem to think National Counterterrorism Center Director Michael Leiter should be the one canned over this report (and that's even before you consider that Leiter went on vacation right after Umar Farouk Abdulmutallab's attempted attack).

But Obama apparently wanted a big scapegoat, and rather than fix some inherent problems with the DNI position first, he decided to just get rid of Blair in hopes that a new, better DNI could fix those inherent problems.

Problem was, the Administration didn't do the work of finding an acceptable replacement before chasing Blair out. It hadn't, apparently, gotten agreement from the better candidates to take the job, and it clearly hadn't gotten buy-in from even DiFi—Chair of the Committee that will handle the nomination—before picking a candidate

she didn't like.

That's sort of like spiking the ball in the endzone to celebrate Blanche Lincoln's **runoff** win (in spite of her crappy general election poll numbers), while ignoring all the money wasted on Ed Case's and Arlen Specter's electoral campaigns. Or, closer to my home, it's like chasing John Cherry out of the primary to be Governor of MI, without first making sure we had a top-tier candidate to replace him (yeah, I'm increasingly worried that MI will elect Governor Crazy Pete this year).

Obama's pick of James Clapper to be DNI is yet another example of the Administration assuming—without listening to the people on the ground, without talking to people with real equity and experience on the matter—that it knows best. Add in the fact that the Clapper nomination is also being rolled into the dispute between the Administration and Congress on real oversight of the intelligence community.

That's not a surprise, mind you. Perhaps the biggest single weakness of the Obama Administration is that its members are just as certain of their own correctness as James Clapper was once certain that Iraq's WMD were in Syria. So they're none too good at doing things like arranging for a Plan B or consulting with those who know best before launching a plan.

But I did think it worthwhile to point out that they're doing this both at the electoral level and with their nominations.