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Essay; A Smoking Gun?

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Did the Bush Administration, eager to build up Saddam Hussein, interfere in the Atlanta U.S. Attorney's investigation of Iraq's corruption of our Department of Agriculture? Has the Attorney General committed an impeachable offense in refusing to permit a special prosecutor to investigate obstruction of justice, as Congress requested?

A memo dated Oct. 26, 1989, suggests the answer to both questions is yes.

The damning memo is to Secretary of State James Baker III from John Kelly, head of State's Near East Bureau, and Abraham Sofaer, Legal Counsel. The issue for decision was whether to push for \$1 billion of U.S. grain credits to Iraq despite our growing knowledge that Iraqi officials were breaking our laws.

"Earlier this month, the President signed NSD-26," Mr. Baker was reminded, "mandating pursuit of improved economic and political ties with Iraq." Although Treasury and the Fed opposed granting further credits to near-bankrupt Iraq, "Our ability to influence Iraqi policies . . . will be heavily influenced by the outcome of the Commodity Credit Corporation negotiations."

I think the idea was to pervert the grain credits program, which was set up to help U.S. farmers, and turn it into a backdoor foreign aid source, contrary to the will

of Congress.

How to accomplish this, as it was becoming known that Saddam was stealing us blind? ". . . to wall off an FY90 CCC program from the BNL [Lavoro] investigation" (italics now and later mine), goes the recommendation to Secretary Baker, get an Iraqi promise to "cooperate" in an investigation and to say it won't corruptly handle the new money. In the blank space next to "approve" are the initials "JAB III." To do that, however, State's legal counsel -- denominated "L" in the memo -- first had to find out if any Iraqi officials were likely to be prosecuted as criminals. "L has spoken with US Department of Agriculture and independently with the US Attorney's office in Atlanta."

Iraqgate buffs will recall the objections raised in Congress to evidence that the White House Legal Counsel had at least twice called the assistant U.S. Attorney in Atlanta. In rejecting any suggestion that repeated expressions of interest from the White House constituted undue interference in a criminal investigation, Attorney General Barr's apologia stated that "the words used in the calls did not include any attempt to influence or interfere," therefore "no interference occurred."

Mr. Bush's lawyer claimed he was "seeking only publicly available information." If that were true, a Nexis search could have been made at the touch of a computer button.

Now we have new evidence of Baker's State Department lawyer calling the Atlanta prosecutor a month before. Did the Attorney General, with the vast resources of the F.B.I., discover this in his "investigation"? No; the Criminal Division's assignment, in my view, was to find no evidence.

The real purpose of this improper call from Baker's lawyer was to discover prosecutorial intent. This can be deduced from the "talking points" attached to the Oct. 26 memo, advising Baker how to persuade Agriculture Secretary Clayton Yeutter to forget his fiduciary responsibility and get with the backdoor aid program.

"Our information about the investigation," goes this script for Baker's call, "indicates that the prosecutor does not now intend to indict Iraqi officials." How's that for knowing prosecutorial intent -- and for using the inside information corruptly?

Secretary Yeutter's roundheeled reply is recorded in Baker's handwriting on that same point sheet: "10/31 C [layton] Y [eutter] : 'I think we're seeing it the same way your guys are. I'll get into it.' JAB III."

Former counsel Abe Sofaer says he did not make the Atlanta call and is unfamiliar with the memo, but thinks State has a written procedure for contacting prosecutors. (He's wrong.) State's lawyers, Alan Kreczko and Ted Borek, have dived under desks. Justice has never interviewed them and says it knows of no procedures to limit calls to U.S. Attorneys: no holds Barred.

House Judiciary chairman Jack Brooks is wimping out in the face of this stonewalling. Banking chairman Henry Gonzalez is preparing to answer the A.G.'s defiance with a bill of impeachment.

If elected, would Bill Clinton favor a special Iraqgate prosecutor? Answer: "Yes."

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