

Senate Democratic Policy Committee Hearing
**“Have Bush Administration Reconstruction and
Anti-Corruption Failures Undermined the U.S.
Mission in Iraq?”**

Judge Arthur Brennan
Former State Department Official

Good morning Committee members. My name is Arthur Brennan. I am a New Hampshire Superior Court Justice with senior status. I retired as a full time judge on June 1, 2007. In early July of 2007, I took the position of Director of the Office of Accountability and Transparency (OAT) at the U.S. Embassy in Baghdad.

I am a U.S. Army veteran of the 82d Airborne Division and I served for 20 years in the U.S. Army Reserves. I worked for years as a contractor doing stone work and tree work in New Hampshire. Later, I went to law school on the GI Bill.

My wife of 40 years, Nancy Brennan, a retired teacher, also intended to work in Iraq. In 1995, Nancy and I worked together assisting in an effort to establish a legitimate court system in Cambodia. On July 23, 2007, after I had been in Baghdad for only a few weeks, Nancy was diagnosed with an incurable form of cancer. I took emergency leave from Baghdad, and because of Nancy’s health, I resigned from my job as director of OAT.

In January of 2007, when a State Department official contacted me about taking the job as director of OAT, I was told that one of the U.S. Embassy’s most important objectives was to reduce the devastating corruption that was destroying Iraq and lengthening this crisis. Corruption in the Iraqi government was robbing the Iraqi people of their right to law and order as well as their access to health care and basic services, such as electricity, water, and transportation.

The OAT team, each member having had years of experience in Iraq, soon discovered that the Department of State’s actual policies not only contradicted the anticorruption mission but indirectly contributed to and has allowed corruption to fester at the highest levels of the Iraqi Government. The Embassy effort against corruption, including its new centerpiece, the now defunct Office of Accountability and Transparency (OAT), was little more than “window dressing.” OAT’s work and the work of its close partners, the Department of Justice’s International Criminal Investigative Training and Assistance Program (ICITAP), and the Iraqi Commission for Public Integrity (CPI), under the leadership of Judge Radhi Hamza al Radhi, was ignored and demeaned by the Department of State, the Department of Justice, and the Government of Iraq.

This is because the actual policies and performance of the State Department in Iraq were not what they are represented to be. The Department of State has negligently, recklessly and sometimes intentionally misled the U.S. Congress, the American people, and the people of Iraq. In a sense, the Department of State has contributed to the killing and maiming of U.S. soldiers; the deaths of thousands of Iraqi civilians; the bolstering of illegal militias, insurgents and al Qaeda--and the enrichment and empowerment of the thieves controlling some of the Iraqi ministries. Further, the Department of State's performance or nonperformance has discouraged honest men and women in the Iraqi government. Billions of U.S. and Iraqi dollars have been lost, stolen and wasted. It is likely that some of that money is financing outlaws and insurgents such as the Mehdi Army. I will give you a few examples that substantiate these conclusions.

In mid-July 2007, OAT received a request from the Special Inspector General for Iraq Reconstruction (SIGIR) to comment on a draft of SIGIR's upcoming report on U.S. anticorruption efforts in Iraq. The draft report described the positive development of an entity named the Joint Anti-Corruption Committee (JACC), which consists of the three Iraqi government watchdogs, the BSA (similar to GAO), the CPI (similar to FBI), and the Iraqi IG's.

In OAT's response to the SIGIR request for comment, we pointed out to SIGIR, among other things, that the only visible activity of the Joint Anticorruption Committee (JACC) was to provide a forum for an Iraqi official who wanted Judge Radhi Hamza al Radhi, Director of the CPI, to be removed from his position as Commissioner of CPI. This official sought Judge Radhi's removal because CPI's investigators were uncovering billions of dollars of corruption in the ministries and this was causing political problems for certain Iraqi leaders with close ties to the government of Prime Minister Nouri al-Maliki.

Unaware that the response to the SIGIR inquiry had to be vetted by the Chief of Mission, I ordered that the answer be sent directly to SIGIR. Within a day, the answer was withdrawn and a new response, drafted outside of OAT, was sent back to SIGIR. It bore little or no resemblance to the OAT response and failed to even mention what a disaster the JACC really was. I have copies of both letters. Incidentally, I approved the new letter, but much against my better judgment. Later events make me regret that moment when I dropped my principles and drifted along with the program.

Later in July, the OAT team expressed concerns to the Chief of Mission, Ambassador Crocker, about an Iraqi leader who was being investigated for theft and or misappropriation of up to one billion dollars in medical supplies intended for the use of the Iraqi people. The medical supplies were showing up on the black market in Iraq and Syria. This leader insisted on accompanying the OAT Senior Advisor assigned to his agency whenever the advisor met other Iraqi officials employed in other Iraqi ministries.

OAT had evidence that the man was corrupt and dangerous. He had been in the leadership of a ministry that was directly involved in the abduction, torture and murder of hundreds of Sunnis who had sought treatment in Iraqi medical centers. The death squads within the medical centers hunted down Sunnis who had given their names and addresses

when admitted for medical care.

We pointed out to Ambassador Crocker that we were concerned about going along with this leader because in doing so we were lending our credibility to a person with a reputation for dishonesty and violence (the man had threatened CPI investigators). I told Crocker that I felt we were bolstering the man's visibility and position in the Iraqi government at the expense of our credibility. Further, we felt we were endangering the life of the OAT Senior Advisor assigned to his agency for nothing. Ambassador Crocker responded that he wanted more proof. I referred him to the OAT Senior Advisor to CPI who then explained to the Chief of Mission in more detail. Ambassador Crocker immediately ordered a comprehensive report on Embassy anticorruption efforts. I took emergency leave shortly thereafter and I am unaware of whether or not any such report was ever issued.

That Iraqi leader is still in power. In fact, a few months later, the leader recognized one of the OAT team members and commented that he looked forward to the day when Judge Radhi would be sent back to Iraq where "justice would be done."

In January and July of 2007, OAT issued a comprehensive report of its own on the level of corruption in the 31 Iraqi ministries. This 60 page report, by the way, has nothing to do with the report requested by Ambassador Crocker. To my knowledge, the State Department has never reacted or responded to OAT's initial January report or the updated July report in any way.

In the late summer or early fall of 2007, the House Committee on Oversight and Government Reform requested a copy of the OAT July report. The Department of State retroactively classified the report to prevent it from being made a subject of public knowledge and discussion. Also, after the inquiry by the House Oversight Committee, OAT personnel and all other State Department personnel were ordered not to testify at all to the House Committee about corruption within the Iraqi Government.

Later, when an investigator from the House Oversight Committee was in Baghdad and asked to speak with members of OAT, he was told by Department of State representatives that OAT was "too busy." In actuality, members of the OAT team, having little to do after Judge Radhi's departure and the Prime Minister's subsequent evisceration of CPI, were watching western movies at the Embassy, in the OAT office, at my desk and on my computer.

OAT Senior Advisors worked very closely with Judge Radhi Hamza al Radhi, the Commissioner of CPI, the Iraqi equivalent to the FBI. Judge Radhi has a solid reputation in the U.S. Embassy and the Department of Justice for running an honest, unbiased, and independent government agency.

Judge Radhi's CPI investigators were trained and advised by the American law enforcement officers of ICITAP. Those law enforcement officers hold Judge Radhi and his CPI investigators in high esteem. I have personal knowledge that those American law enforcement officers would as quickly risk their lives for those Iraqi men as they would

for each other.

Despite orders from the Iraqi Prime Minister's office to remove Sunnis from CPI employment; to fire his Chief Investigator, known as the "Elliott Ness of Iraq;" and not to investigate high ranking Iraqi officials without permission from the Prime Minister; Judge Radhi courageously stuck to his principles and refused to carry out those illegal orders. Judge Radhi and his best officers from CPI, and their families, have paid a heavy price for their steadfast loyalty to the rule of law and the Iraqi people. 31 CPI employees have been murdered along with 12 of their family members. Now, Judge Radhi and his best lieutenants are men without a country.

In September of 2007, Judge Radhi was forced to seek asylum in the United States. Finally, after continuous political efforts by the Iraqi prime minister's office to remove Judge Radhi had failed; after bogus attempts to accuse him of crimes and corruption had failed; and after threats and murder of CPI personnel and their families had failed; the two rockets that narrowly missed his house in Baghdad convinced him that his family would be murdered and that he must resign and seek asylum in the United States.

In the end, the State Department abandoned and betrayed Judge Radhi. The State Department's response to this tragedy is telling--the American law enforcement officers of ICITAP and the senior advisors at OAT who worked so closely with CPI and sought protection for Judge Radhi and his investigators were ordered not to provide letters or affidavits in support of Judge Radhi's applications for asylum. Who knew more about Judge Radhi and his deputies than the officers of ICITAP? Who could better explain to the administrative judge what danger Judge Radhi was in and why he should be granted asylum? What clearer message could the State Department be sending to any honest Iraqi official about the credibility, loyalty and reliability of the U.S. government? What clearer message could the State Department be sending to the corrupt Iraqi officials who threatened to harm and may have attempted to kill Judge Radhi and his family? What an affront to the American law enforcement officers of ICITAP who had so effectively and courageously worked with Judge Radhi and his investigators.

There were are a number of problems with oversight that should be considered. For instance, the Bureau of Supreme Audit (BSA), similar to our GAO, is one of the three Iraqi watchdog agencies assisted by OAT and now ACCO, but to my knowledge, no one in the State Department has ever seen an actual audit of any Iraqi agency or ministry.

Also, the CPI and the other watchdog agencies are very limited in their ability to audit, inspect and investigate. Many of the Ministries are controlled by criminals and guarded by armed thugs. It would be a death sentence to try to do an investigation without armed support and security.

Shortly after I arrived in Iraq, a senior U.S. Army JAG officer stopped me after a meeting. He told me "Judge, be careful. Your job is dangerous and not only from the Iraqis. There are people here who would be happy to see this thing last forever." At the time, I thought it was a strange thing to say. Now, I find it reasonable and understandable.

Thank you for listening to me. I'll do my best to accurately answer any questions you may have.