

Executive Summary and Summary of Prosecutions: Final Report Of The Independent Counsel For Iran/Contra Matters

ratior's note - What the true scope of Iran-Contra comprised:

The scope and limits of the investigation of the Independent Counsel, charged with examining certain exposed secret government operations of the Reagan administration, was defined by then Attorney General Edwin Meese. As stated below,

"The evidence indicates that Meese's November 1986 inquiry was more of a damage-control exercise than an effort to find the facts. . . [Meese] had private conversations [with key participants] without taking notes . . . failed . . . to take . . . prudent steps to protect potential evidence . . . [and] gave a false account of what he had been told. . . . The statute of limitations had run on November 1986 activities before OIC obtained its evidence. In 1992, Meese denied recollection of the statements attributed to him by the notes of Weinberger and Regan. He was unconvincing, but the passage of time would have been expected to raise a reasonable doubt of the intentional falsity of his denials if he had been prosecuted for his 1992 false statements."

So the Attorney General, the leading law enforcement officer of the land, who framed the scope and limits of the investigation called "Iran Contra," would himself have been prosecuted for false statements made later concerning his conversations with Secretary of Defense Casper Weinberger and Secretary of State James Baker; to say nothing of the fact that as the leading law enforcement officer of the U.S., he failed to fulfill his oath of office to uphold, protect, and defend the constitution of the United States.

In 1989 I interviewed L. Fletcher Prouty for five days concerning his experiences in the US Air Force from 1941 to January 1964 including participating in the creation and then operating the USAF branch of the Pentagon Focal Point Office for the CIA from 1955 to 1963 that provided logistical support for worldwide clandestine operations of the U.S. government. The subject of Iran-Contra came up a number of times in our conversation.

Prouty: As intricate as anything we did in the days we were in this kind of work was handling money. I spent more time, on these papers that I prepared for the methodology of handling covert operations, ("Military Support of the Clandestine Operations of the United States Government" written in 1955. See Military Experiences, Part II, page 42) in devising the money trails as anything else.

That's why I feel in this current business about the Iran-hostage exchange, when you hear these top people talking about the use of the Economy Act of 1932 -- they don't say the year -- they just say the Economy Act, what they are really talking about is this very secret money channel that we established for actual covert operations. It works all right. It's not described in this document (*U.S. Government Organization Manual, 1959-1960*, page 143. See page 76) at all. But it was a key to how this whole business of covert operations worked. You've got to pay people all the time. . . .

We created a system for this. We created a system where every single credit card turned in on these planes in the clandestine business around the world would arrive at a certain computer center at Dayton, Ohio. From that computer center in Dayton, it would fall into a certain box and we'd pay those bills. Then we'd turn right around and charge CIA -- but we'd do it on internal U.S. Air Force books so nobody knew it. Thus we could follow the movement of every single airplane. If you can't do that, you can't run covert operations. As you heard Colonel North trying to explain what they did, and he can't do it -- it's because the system broke down. They had trouble with the system, they need to go back and rethink the system. A very intricate system. . . .

The money we're talking about is nothing but numbers: so many dollars in the Defense budget that moved into the CIA budget, or vice versa and so many dollars from another budget moving into this budget. We never touched a dollar, we never asked the Sultan of Brunei or anyone else for a couple of million bucks as they say the "Iran-Contra" operators did -- that's utterly ridiculous! If you're going to help some young kids in Honduras that are called the "Contras," you don't go around borrowing millions of dollars to give to some ex-Nicaraguan in a villa in Palm Beach! That's what the Iran-Contra scheme was doing.

During that Iran-Contra fiasco, if we just had a chance to take this one directive, and explain it to Judge Gesell or to Prosecutor Walsh and let them know what the facts of life are, they would have ended that problem in a few days. They wouldn't even need the jury. It's just ridiculous the way this has grown. . . .

We have to look at it several ways. If they reached the point in coming down the levels, the first thing to know

is to find out who really made the decision and whether he had that authority. It wasn't Ollie North; it wasn't Poindexter; it wasn't McFarland. They all worked for people. So you have to go to the people they worked for and say, "Who made the decision?"

The man [Weinberger] who said this Iran-Contra operation was done under the Economy Act made the decision. Because, by saying it was done under the Economy Act, what he is doing is opening the doors of the secret supply channel, which is worth tens of millions of dollars. He had to have the money for it -- meaning the money in the federal budget -- not cash on the barrel, and not cash he got from the King of Saudi Arabia.

He made the decision to release the missiles, and not to sell them to somebody -- in exchange for hostages. When you exchange the missiles for hostages, you don't get any money; the hostages are the money, you exchange for hostages. If somebody kidnapped my dog and said he wanted \$100, I'd give them the money and I'd take the dog. That's the deal!

The whole situation in this contrived Iran-Contra situation -- from the point when McFarlane went over to Teheran with a cake and a Bible, the whole thing, right there, was explaining itself as a weird, mixed-up exercise. You don't do clandestine exercises that way. There was something terribly wrong with it when it started with a cake and a Bible. . . . [T]his Iran-Contra deal is the biggest aberration on covert operation I've ever heard of. It simply is not a covert operation at all. Somebody was just handling a lot of money, and Meese created the meaningless name for that game, "Iran-Contra", that was just contrived.

Ratcliffe: What's your sense of the most likely explanation for how things have gone so awry?

Prouty: It's simple. The Iraqis have fought the Iranians since 1981. And in that period the Iraqis have released data that this warfare cost them \$60 billion. I'm sure the Iranians fought as hard as the Iraqis did. The Iranians were using U.S. military hardware, because most of their army and navy are supplied with things made in the United States. When the equipment is made in the United States -- like engines or parts -- you have to buy them from the United States; nobody else makes that specific military equipment, at least not identical. So you have to buy it from the United States.

So, I believe (without too much concern about the exact record, or the figures) that it must have cost the Iranians about \$60 billion to fight the Iraqis. If it did, it means the Iranians purchased (from somebody) parts made in the United States that belonged to the U.S military (or the military suppliers) worth \$60 billion. Not a few million. Not a cake and a bible. Sixty billion dollars. They don't want to talk about it.

So they'd rather talk about the cake and the bible and the Contras. That's the role Mr. Meese created to divert the people from the \$60 billion and talk about the Contras. When you're talking about the Contras, everything that happened in Iran is quiet. One was supposed to balance the other.

If you go back and look at the newspapers, the Iranian/Contra problem began with a little newspaper saying that weapons from the United States had been exchanged for hostages. That was the problem -- only that. Then, when Mr. Meese went poking around in the papers in the White House, he says he found a memo that the money from that exchange was going to the Contras. He made some funny statements. There's no money from the exchange -- not from that exchange -- and there was no need of giving money to the Contras. But every eye and ear of the members of the Congressional hearings turned to the Contras, and they forgot Iran from that time on. Mr. Meese's gambit succeeded. As simple as that.

Then we get people who have other interests -- and I make no brief for them; but people like the Christic Institute -- who amplified on this deal. The next thing you know, everybody's looking at Nicaragua instead of Teheran. Well, that covers up the \$60 billion deal we played with Iran. There's your problem.

Understanding Special Operations, pp. 80-83.

The money was transferred quietly on paper in the government. And nobody saw it because of the Economy Act principles -- which Weinberger talked about anyway! There's something very much mixed-up in this Iran/Contra thing, because they didn't need the money to transfer in the first place . . . unless someone was stealing it.

Ibid., p. 45.

See also *Understanding Special Operations's* Index section on Iran-Contra.

The following is mirrored from its source at: <http://www.fas.org/irp/offdocs/walsh/execsum.htm>

The complete Final Report is located at: <http://www.fas.org/irp/offdocs/walsh/>.

Executive Summary and Summary of Prosecutions: Final Report Of The Independent Counsel For Iran/Contra Matters

Volume I: Investigations and Prosecutions

Lawrence E. Walsh, Independent Counsel

4 August 1993

Washington D.C.

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

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Executive Summary

In October and November 1986, two secret U.S. Government operations were publicly exposed, potentially implicating Reagan Administration officials in illegal activities. These operations were the provision of assistance to the military activities of the Nicaraguan contra rebels during an October 1984 to October 1986 prohibition on such aid, and the sale of U.S. arms to Iran in contravention of stated U.S. policy and in possible violation of arms-export controls. In late November 1986, Reagan Administration officials announced that some of the proceeds from the sale of U.S. arms to Iran had been diverted to the contras.

As a result of the exposure of these operations, Attorney General Edwin Meese III sought the appointment of an independent counsel to investigate and, if necessary, prosecute possible crimes arising from them.

The Special Division of the United States Court of Appeals for the District of Columbia Circuit appointed Lawrence E. Walsh as Independent Counsel on December 19, 1986, and charged him with investigating:

1. the direct or indirect sale, shipment, or transfer since in or about 1984 down to the present, of military arms, materiel, or funds to the government of Iran, officials of that government, persons, organizations or entities connected with or purporting to represent that government, or persons located in Iran;
2. the direct or indirect sale, shipment, or transfer of military arms, materiel or funds to any government, entity, or person acting, or purporting to act as an intermediary in any transaction referred to above;
3. the financing or funding of any direct or indirect sale, shipment or transfer referred to above;
4. the diversion of proceeds from any transaction described above to or for any person, organization, foreign government, or any faction or body of insurgents in any foreign country, including, but not limited to Nicaragua;
5. the provision or coordination of support for persons or entities engaged as military insurgents in armed conflict with the government of Nicaragua since 1984.

This is the final report of that investigation.

Overall Conclusions

The investigations and prosecutions have shown that high-ranking Administration officials violated laws and executive orders in the Iran/contra matter.

Independent Counsel concluded that:

- the sales of arms to Iran contravened United States Government policy and may have violated the Arms Export Control Act[1]

[1] Independent Counsel is aware that the Reagan Administration Justice Department took the position, after the November 1986 revelations, that the 1985 shipments of United States weapons to Iran did not violate the law. This post hoc position does not correspond with the contemporaneous advice given the President. As detailed within this report, Secretary of Defense Caspar W. Weinberger (a lawyer with an extensive record in private practice and the former general counsel of the Bechtel Corporation) advised President Reagan in 1985 that the shipments were illegal. Moreover, Weinberger's opinion was shared by attorneys within the Department of Defense and the White House counsel's office once they became aware of the 1985 shipments. Finally, when Attorney General Meese conducted his initial inquiry into the Iran arms sales, he expressed concern that the shipments may have been illegal.

- the provision and coordination of support to the contras violated the Boland Amendment ban on aid to military activities in Nicaragua;
- the policies behind both the Iran and contra operations were fully reviewed and

developed at the highest levels of the Reagan Administration;

- although there was little evidence of National Security Council level knowledge of most of the actual contra-support operations, there was no evidence that any NSC member dissented from the underlying policy -- keeping the contras alive despite congressional limitations on contra support;
- the Iran operations were carried out with the knowledge of, among others, President Ronald Reagan, Vice President George Bush, Secretary of State George P. Shultz, Secretary of Defense Caspar W. Weinberger, Director of Central Intelligence William J. Casey, and national security advisers Robert C. McFarlane and John M. Poindexter; of these officials, only Weinberger and Shultz dissented from the policy decision, and Weinberger eventually acquiesced by ordering the Department of Defense to provide the necessary arms; and
- large volumes of highly relevant, contemporaneously created documents were systematically and willfully withheld from investigators by several Reagan Administration officials.
- following the revelation of these operations in October and November 1986, Reagan Administration officials deliberately deceived the Congress and the public about the level and extent of official knowledge of and support for these operations.

In addition, Independent Counsel concluded that the off-the-books nature of the Iran and contra operations gave line-level personnel the opportunity to commit money crimes.

Prosecutions

In the course of Independent Counsel's investigation, 14 persons were charged with criminal violations. There were two broad classes of crimes charged: Operational crimes, which largely concerned the illegal use of funds generated in the course of the operations, and "cover-up" crimes, which largely concerned false statements and obstructions after the revelation of the operations. Independent Counsel did not charge violations of the Arms Export Control Act or Boland Amendment. Although apparent violations of these statutes provided the impetus for the cover-up, they are not criminal statutes and do not contain any enforcement provisions.

All of the individuals charged were convicted, except for one CIA official whose case was dismissed on national security grounds and two officials who received unprecedented pre-trial pardons by President Bush following his electoral defeat in 1992. Two of the convictions were reversed on appeal on constitutional grounds that in no way cast doubt on the factual guilt of the men convicted. The individuals charged and the disposition of their cases are:

1. *Robert C. McFarlane*: pleaded guilty to four counts of withholding information from Congress;

2. *Oliver L. North*: convicted of altering and destroying documents, accepting an illegal gratuity, and aiding and abetting in the obstruction of Congress; conviction reversed on appeal;
3. *John M. Poindexter* : convicted of conspiracy, false statements, destruction and removal of records, and obstruction of Congress; conviction reversed on appeal;
4. *Richard V. Secord*: pleaded guilty to making false statements to Congress;
5. *Albert Hakim*: pleaded guilty to supplementing the salary of North;
6. *Thomas G. Clines*: convicted of four counts of tax-related offenses for failing to report income from the operations;
7. *Carl R. Channell*: pleaded guilty to conspiracy to defraud the United States;
8. *Richard R. Miller*: pleaded guilty to conspiracy to defraud the United States;
9. *Clair E. George*: convicted of false statements and perjury before Congress;
10. *Duane R. Clarridge* : indicted on seven counts of perjury and false statements; pardoned before trial by President Bush;
11. *Alan D. Fiers, Jr.*: pleaded guilty to withholding information from Congress;
12. *Joseph F. Fernandez*: indicted on four counts of obstruction and false statements; case dismissed when Attorney General Richard L. Thornburgh refused to declassify information needed for his defense;
13. *Elliott Abrams*: pleaded guilty to withholding information from Congress;
14. *Caspar W. Weinberger* : charged with four counts of false statements and perjury; pardoned before trial by President Bush.

At the time President Bush pardoned Weinberger and Clarridge, he also pardoned George, Fiers, Abrams, and McFarlane.

The Basic Facts of Iran/contra

The Iran/contra affair concerned two secret Reagan Administration policies whose operations were coordinated by National Security Council staff. The Iran operation involved efforts in 1985 and 1986 to obtain the release of Americans held hostage in the Middle East through the sale of U.S. weapons to Iran, despite an embargo on such sales. The contra operations from 1984 through most of 1986 involved the secret governmental support of contra military and paramilitary activities in Nicaragua, despite congressional prohibition of this support.

The Iran and contra operations were merged when funds generated from the sale of weapons to Iran were diverted to support the contra effort in Nicaragua. Although this "diversion" may be the most dramatic aspect of Iran/contra, it is important to emphasize that both the Iran and contra operations, separately, violated United States policy and law.[2] The ignorance of the "diversion" asserted by President Reagan and his Cabinet officers on the National Security Council in no way absolves them of responsibility for the underlying Iran and contra operations.

2. See n. 1 above

The secrecy concerning the Iran and contra activities was finally pierced by events that took place thousands of miles apart in the fall of 1986. The first occurred on October 5, 1986, when Nicaraguan government soldiers shot down an American cargo plane that was carrying military supplies to contra forces; the one surviving crew member, American Eugene Hasenfus, was taken into captivity and stated that he was employed by the CIA. A month after the Hasenfus shootdown, President Reagan's secret sale of U.S. arms to Iran was reported by a Lebanese publication on November 3. The joining of these two operations was made public on November 25, 1986, when Attorney General Meese announced that Justice Department officials had discovered that some of the proceeds from the Iran arms sales had been diverted to the contras.

When these operations ended, the exposure of the Iran/contra affair generated a new round of illegality. Beginning with the testimony of Elliott Abrams and others in October 1986 and continuing through the public testimony of Caspar W. Weinberger on the last day of the congressional hearings in the summer of 1987, senior Reagan Administration officials engaged in a concerted effort to deceive Congress and the public about their knowledge of and support for the operations.

Independent Counsel has concluded that the President's most senior advisers and the Cabinet members on the National Security Council participated in the strategy to make National Security staff members McFarlane, Poindexter and North the scapegoats whose sacrifice would protect the Reagan Administration in its final two years. In an important sense, this strategy succeeded. Independent Counsel discovered much of the best evidence of the cover-up in the final year of active investigation, too late for most prosecutions.

Scope of Report

This report provides an account of the Independent Counsel's investigation, the prosecutions, the basis for decisions not to prosecute, and overall observations and conclusions on the Iran/contra matters.

Part I of the report sets out the underlying facts of the Iran and contra operations. Part II describes the criminal investigation of those underlying facts. Part III provides an analysis of the central operational conspiracy. Parts IV through IX are agency-level reports of Independent Counsel's investigations and cases: the National Security staff, the private operatives who assisted the NSC staff, Central Intelligence Agency officials, Department of State officials, and White House officials and Attorney General Edwin Meese III.

Volume I of this report concludes with a chapter concerning political oversight and the rule of law, and a final chapter containing Independent Counsel's observations. Volume II of the report contains supporting documentation. Volume III is a classified appendix.

Because many will read only sections of the report, each has been written with completeness, even though this has resulted in repetition of factual statements about central activities.

The Operational Conspiracy

The operational conspiracy was the basis for Count One of the 23-count indictment returned by the Grand Jury March 16, 1988, against Poindexter, North, Secord, and Hakim. It charged the four with conspiracy to defraud the United States by deceitfully:

1. supporting military operations in Nicaragua in defiance of congressional controls;
2. using the Iran arms sales to raise funds to be spent at the direction of North, rather than the U.S. Government; and
3. endangering the Administration's hostage-release effort by overcharging Iran for the arms to generate unauthorized profits to fund the contras and for other purposes.

The charge was upheld as a matter of law by U.S. District Judge Gerhard A. Gesell even though the Justice Department, in a move that Judge Gesell called "unprecedented," filed an amicus brief supporting North's contention that the charge should be dismissed. Although Count One was ultimately dismissed because the Reagan Administration refused to declassify information necessary to North's defense, Judge Gesell's decision established that high Government officials who engage in conspiracy to subvert civil laws and the Constitution have engaged in criminal acts. Trial on Count One would have disclosed the Government-wide activities that supported North's Iran and contra operations.

Within the NSC, McFarlane pleaded guilty in March 1988 to four counts of withholding information from Congress in connection with his denials that North was providing the contras with military advice and assistance. McFarlane, in his plea agreement, promised to cooperate with Independent Counsel by providing truthful testimony in subsequent trials.

Judge Gesell ordered severance of the trials of the four charged in the conspiracy indictment because of the immunized testimony given by Poindexter, North and Hakim to Congress. North was tried and convicted by a jury in May 1989 of altering and destroying documents, accepting an illegal gratuity and aiding and abetting in the obstruction of Congress. His conviction was reversed on appeal in July 1990 and charges against North were subsequently dismissed in September 1991 on the ground that trial witnesses were tainted by North's nationally televised, immunized testimony before Congress. Poindexter in April 1990 was convicted by a jury on five felony counts of conspiracy, false statements, destruction and removal of records and obstruction of Congress. The Court of Appeals reversed his conviction in November 1991 on the immunized testimony issue.

The Flow of Funds

The illegal activities of the private citizens involved with the North and Secord operations are discussed in detail in Part V. The off-the-books conduct of the two highly secret operations circumvented normal Administration accountability and congressional oversight associated with covert ventures and presented fertile ground for financial wrongdoing. There were several funding sources for the contras' weapons purchases from the covert-action Enterprise formed by North, Secord and Hakim:

1. donations from foreign countries;
2. contributions from wealthy Americans sympathetic to President Reagan's contra support policies; and
3. the diversion of proceeds from the sale of arms to Iran.

Ultimately, all of these funds fell under the control of North, and through him, Secord and Hakim.

North used political fundraisers Carl R. Channell and Richard R. Miller to raise millions of dollars from wealthy Americans, illegally using a tax-exempt organization to do so. These funds, along with the private contributions, were run through a network of corporations and Swiss bank accounts put at North's disposal by Secord and Hakim, through which transactions were concealed and laundered. In late 1985 through 1986 the Enterprise became centrally involved in the arms sales to Iran. As a result of both the Iran and contra operations, more than \$47 million flowed through Enterprise accounts.

Professional fundraisers Channell and Miller pleaded guilty in the spring of 1987 to conspiracy to defraud the Government by illegal use of a tax-exempt foundation to raise contributions for the purchase of lethal supplies for the contras. They named North as an unindicted co-conspirator.

Secord pleaded guilty in November 1989 to a felony, admitting that he falsely denied to Congress that North had personally benefited from the Enterprise. Hakim pleaded guilty to the misdemeanor count of supplementing the salary of North. Lake Resources Inc., the company controlled by Hakim to launder the Enterprise's money flow, pleaded guilty to the corporate felony of theft of Government property in diverting the proceeds from the arms sales to the contras and for other unauthorized purposes. Thomas G. Clines was convicted in September 1990 of four tax-related felonies for failing to report all of his income from the Enterprise.

Agency Support of the Operations

Following the convictions of those who were most central to the Iran/contra operations, Independent Counsel's investigation focused on the supporting roles played by Government officials in other agencies and the supervisory roles of the NSC principals. The investigation showed that Administration officials who claimed initially that they had little knowledge

about the Iran arms sales or the illegal contra-resupply operation North directed were much better informed than they professed to be. The Office of Independent Counsel obtained evidence that Secretaries Weinberger and Shultz and White House Chief of Staff Donald T. Regan, among others, held back information that would have helped Congress obtain a much clearer view of the scope of the Iran/contra matter. Contemporaneous notes of Regan and Weinberger, and those dictated by Shultz, were withheld until they were obtained by Independent Counsel in 1991 and 1992.

The White House and Office of the Vice President

As the White House section of this report describes in detail, the investigation found no credible evidence that President Reagan violated any criminal statute. The OIC could not prove that Reagan authorized or was aware of the diversion or that he had knowledge of the extent of North's control of the contra-resupply network. Nevertheless, he set the stage for the illegal activities of others by encouraging and, in general terms, ordering support of the contras during the October 1984 to October 1986 period when funds for the contras were cut off by the Boland Amendment, and in authorizing the sale of arms to Iran, in contravention of the U.S. embargo on such sales. The President's disregard for civil laws enacted to limit presidential actions abroad—specifically the Boland Amendment, the Arms Export Control Act and congressional-notification requirements in covert-action laws—created a climate in which some of the Government officers assigned to implement his policies felt emboldened to circumvent such laws.

President Reagan's directive to McFarlane to keep the contras alive "body and soul" during the Boland cut-off period was viewed by North, who was charged by McFarlane to carry out the directive, as an invitation to break the law. Similarly, President Reagan's decision in 1985 to authorize the sale of arms to Iran from Israeli stocks, despite warnings by Weinberger and Shultz that such transfers might violate the law, opened the way for Poindexter's subsequent decision to authorize the diversion. Poindexter told Congress that while he made the decision on his own and did not tell the President, he believed the President would have approved. North testified that he believed the President authorized it.

Independent Counsel's investigation did not develop evidence that proved that Vice President Bush violated any criminal statute. Contrary to his public pronouncements, however, he was fully aware of the Iran arms sales. Bush was regularly briefed, along with the President, on the Iran arms sales, and he participated in discussions to obtain third-country support for the contras. The OIC obtained no evidence that Bush was aware of the diversion. The OIC learned in December 1992 that Bush had failed to produce a diary containing contemporaneous notes relevant to Iran/contra, despite requests made in 1987 and again in early 1992 for the production of such material. Bush refused to be interviewed for a final time in light of evidence developed in the latter stages of OIC's investigation, leaving unresolved a clear picture of his Iran/contra involvement. Bush's pardon of Weinberger on December 24, 1992 pre-empted a trial in which defense counsel indicated that they intended to call Bush as a witness.

The chapters on White House Chief of Staff Regan and Attorney General Edwin Meese III focus on their actions during the November 1986 period, as the President and his advisers

sought to control the damage caused by the disclosure of the Iran arms sales. Regan in 1992 provided Independent Counsel with copies of notes showing that Poindexter and Meese attempted to create a false account of the 1985 arms sales from Israeli stocks, which they believed were illegal, in order to protect the President. Regan and the other senior advisers did not speak up to correct the false version of events. No final legal determination on the matter had been made. Regan said he did not want to be the one who broke the silence among the President's senior advisers, virtually all of whom knew the account was false.

The evidence indicates that Meese's November 1986 inquiry was more of a damage-control exercise than an effort to find the facts. He had private conversations with the President, the Vice President, Poindexter, Weinberger, Casey and Regan without taking notes. Even after learning of the diversion, Meese failed to secure records in NSC staff offices or take other prudent steps to protect potential evidence. And finally, in reporting to the President and his senior advisers, Meese gave a false account of what he had been told by stating that the President did not know about the 1985 HAWK shipments, which Meese said might have been illegal. The statute of limitations had run on November 1986 activities before OIC obtained its evidence. In 1992, Meese denied recollection of the statements attributed to him by the notes of Weinberger and Regan. He was unconvincing, but the passage of time would have been expected to raise a reasonable doubt of the intentional falsity of his denials if he had been prosecuted for his 1992 false statements.

The Role of CIA Officials

Director Casey's unswerving support of President Reagan's contra policies and of the Iran arms sales encouraged some CIA officials to go beyond legal restrictions in both operations. Casey was instrumental in pairing North with Secord as a contra-support team when the Boland Amendment in October 1984 forced the CIA to refrain from direct or indirect aid. He also supported the North-Secord combination in the Iran arms sales, despite deep reservations about Secord within the CIA hierarchy.

Casey's position on the contras prompted the chief of the CIA's Central American Task Force, Alan D. Fiers, Jr., to "dovetail" CIA activities with those of North's contra-resupply network, in violation of Boland restrictions. Casey's support for the NSC to direct the Iran arms sales and to use arms dealer Manucher Ghorbanifar and Secord in the operation, forced the CIA's Directorate of Operations to work with people it distrusted.

Following the Hasenfus shutdown in early October 1986, George and Fiers lied to Congress about U.S. Government involvement in contra resupply, to, as Fiers put it, "keep the spotlight off the White House." When the Iran arms sales became public in November 1986, three of Casey's key officers—George, Clarridge and Fiers—followed Casey's lead in misleading Congress.

Four CIA officials were charged with criminal offenses—George, the deputy director for operations and the third highest-ranking CIA official; Clarridge, chief of the European Division; Fiers; and Fernandez. George was convicted of two felony counts of false statements and perjury before Congress. Fiers pleaded guilty to two misdemeanor counts of withholding information from Congress. The four counts of obstruction and false statements

against Fernandez were dismissed when the Bush Administration refused to declassify information needed for his defense. Clarridge was awaiting trial on seven counts of perjury and false statements when he, George and Fiers were pardoned by President Bush.

State Department Officials

In 1990 and 1991, Independent Counsel received new documentary evidence in the form of handwritten notes suggesting that Secretary Shultz's congressional testimony painted a misleading and incorrect picture of his knowledge of the Iran arms sales. The subsequent investigation focused on whether Shultz or other Department officials deliberately misled or withheld information from congressional or OIC investigators.

The key notes, taken by M. Charles Hill, Shultz's executive assistant, were nearly verbatim, contemporaneous accounts of Shultz's meetings within the department and Shultz's reports to Hill on meetings the secretary attended elsewhere. The Hill notes and similarly detailed notes by Nicholas Platt, the State Department's executive secretary, provided the OIC with a detailed account of Shultz's knowledge of the Iran arms sales. The most revealing of these notes were not provided to any Iran/contra investigation until 1990 and 1991. The notes show that contrary to his early testimony that he was not aware of details of the 1985 arms transfers Shultz knew that the shipments were planned and that they were delivered. Also in conflict with his congressional testimony was evidence that Shultz was aware of the 1986 shipments.

Independent Counsel concluded that Shultz's early testimony was incorrect, if not false, in significant respects, and misleading, if literally true, in others. When questioned about the discrepancies in 1992, Shultz did not dispute the accuracy of the Hill notes. He told OIC that he believed his testimony was accurate at the time and he insisted that if he had been provided with the notes earlier, he would have testified differently. Independent Counsel declined to prosecute because there was a reasonable doubt that Shultz's testimony was willfully false at the time it was delivered.

Independent Counsel concluded that Hill had willfully withheld relevant notes and prepared false testimony for Shultz in 1987. He declined to prosecute because Hill's claim of authorization to limit the production of his notes and the joint responsibility of Shultz for the resulting misleading testimony, would at trial have raised a reasonable doubt, after Independent Counsel had declined to prosecute Shultz.

Independent Counsel's initial focus on the State Department had centered on Assistant Secretary Elliott Abrams' insistence to Congress and to the OIC that he was not aware of North's direction of the extensive contra-resupply network in 1985 and 1986. As assistant secretary of state for inter-American affairs, Abrams chaired the Restricted Inter-Agency Group, or RIG, which coordinated U.S. policy in Central America. Although the OIC was skeptical about Abrams' testimony, there was insufficient evidence to proceed against him until additional documentary evidence inculpatory of him was discovered in 1990 and 1991, and until Fiers, who represented the CIA on the RIG, pleaded guilty in July 1991 to withholding information from Congress. Fiers provided evidence to support North's earlier testimony that Abrams was knowledgeable about North's contra-supply network. Abrams

pleaded guilty in October 1991 to two counts of withholding information from Congress about secret Government efforts to support the contras, and about his solicitation of \$10 million to aid the contras from the Sultan of Brunei.

Secretary Weinberger and Defense Department Officials

Contrary to their testimony to the presidentially appointed Tower Commission and the Select Iran/contra Committees of Congress, Independent Counsel determined that Secretary Weinberger and his closest aides were consistently informed of proposed and actual arms shipments to Iran during 1985 and 1986. The key evidence was handwritten notes of Weinberger, which he deliberately withheld from Congress and the OIC until they were discovered by Independent Counsel in late 1991. The Weinberger daily diary notes and notes of significant White House and other meetings contained highly relevant, contemporaneous information that resolved many questions left unanswered in early investigations.

The notes demonstrated that Weinberger's early testimony that he had only vague and generalized information about Iran arms sales in 1985 was false, and that he in fact had detailed information on the proposed arms sales and the actual deliveries. The notes also revealed that Gen. Colin Powell, Weinberger's senior military aide, and Richard L. Armitage, assistant secretary of defense for international security affairs, also had detailed knowledge of the 1985 shipments from Israeli stocks. Armitage and Powell had testified that they did not learn of the November 1985 HAWK missile shipment until 1986.

Weinberger's notes provided detailed accounts of high-level Administration meetings in November 1986 in which the President's senior advisers were provided with false accounts of the Iran arms sales to protect the President and themselves from the consequences of the possibly illegal 1985 shipments from Israeli stocks.

Weinberger's notes provided key evidence supporting the charges against him, including perjury and false statements in connection with his testimony regarding the arms sales, his denial of the existence of notes and his denial of knowledge of Saudi Arabia's multi-million dollar contribution to the contras. He was pardoned less than two weeks before trial by President Bush on December 24, 1992.

There was little evidence that Powell's early testimony regarding the 1985 shipments and Weinberger's notes was willfully false. Powell cooperated with the various Iran/contra investigations and, when his recollection was refreshed by Weinberger's notes, he readily conceded their accuracy. Independent Counsel declined to prosecute Armitage because the OIC's limited resources were focused on the case against Weinberger and because the evidence against Armitage, while substantial, did not reach the threshold of proof beyond a reasonable doubt.

The Reagan, Bush and Casey Segments

The Independent Counsel Act requires a report as to persons not indicted as well as those indicted. Because of the large number of persons investigated, those discussed in individual

sections of this report are limited to those as to whom there was a possibility of indictment. In addition there are separate sections on President Reagan and President Bush because, although criminal proceedings against them were always unlikely, they were important subjects of the investigation, and their activities were important to the action taken with respect to others.

CIA Director Casey is a special case. Because Casey was hospitalized with a fatal illness before Independent Counsel was appointed, no formal investigation of Casey was ever undertaken by the OIC. Casey was never able to give his account, and he was unable to respond to allegations of wrongdoing made about him by others, most prominently North, whose veracity is subject to serious question. Equally important, fundamental questions could not be answered regarding Casey's state of mind, the impact, if any, of his fatal illness on his conduct and his intent.

Under normal circumstances, a prosecutor would hesitate to comment on the conduct of an individual whose activities and actions were not subjected to rigorous investigation, which might exculpate that individual. Nevertheless, after serious deliberation, Independent Counsel concluded that it was in the public interest that this report expose as full and complete an account of the Iran/contra matter as possible. This simply could not be done without an account of the role of Director Casey.

Observations and Conclusions

This report concludes with Independent Counsel's observations and conclusions. He observes that the governmental problems presented by Iran/contra are not those of rogue operations, but rather those of Executive Branch efforts to evade congressional oversight. As this report documents, the competing roles of the attorney general/adviser to the President and top law-enforcement officer come into irreconcilable conflict in the case of high-level Executive Branch wrongdoing. Independent Counsel concludes that congressional oversight alone cannot correct the deficiencies that result when an attorney general abandons the law-enforcement responsibilities of that office and undertakes, instead, to protect the President.

Independent Counsel asks the Congress to review the difficult and delicate problem posed to the investigations and prosecutions by congressional grants of immunity to principals. While recognizing the important responsibility of Congress for investigating such matters thoroughly, Congress must realize that grants of use immunity to principals in such highly exposed matters as the Iran/contra affair will virtually rule out successful prosecution.

Independent Counsel also addresses the problem of implementing the Classified Information Procedures Act (CIPA) in cases steeped in highly classified information, such as many of the Iran/contra prosecutions. Under the Act, the attorney general has unrestricted discretion to decide whether to declassify information necessary for trial, even in cases in which Independent Counsel has been appointed because of the attorney general's conflict of interest. This discretion is inconsistent with the perceived need for independent counsel, particularly in cases in which officers of the intelligence agencies that classify information are under investigation. This discretion gives the attorney general the power to block almost

any potentially embarrassing prosecution that requires the declassification of information. Independent Counsel suggests that the attorney general implement standards that would permit independent review of a decision to block a prosecution of an officer within the Executive Branch and legitimate congressional oversight.

Classified Information

In addition to the unclassified Volumes I and II of this report, a brief classified report, Volume III, has been filed with the Special Division. The classified report contains references to material gathered in the investigation of Iran/contra that could not be declassified and could not be concealed by some substitute form of discussion.

Summary of Prosecutions

After Independent Counsel Lawrence E. Walsh's appointment in December 1986, 14 persons were charged with criminal offenses. Eleven persons were convicted, but two convictions were overturned on appeal. Two persons were pardoned before trial and one case was dismissed when the Bush Administration declined to declassify information necessary for trial. On December 24, 1992, President Bush pardoned Caspar W. Weinberger, Duane R. Clarridge, Clair E. George, Elliott Abrams, Alan D. Fiers, Jr., and Robert C. McFarlane.

Completed Trials and Pleas

Elliott Abrams - Pleaded guilty October 7, 1991, to two misdemeanor charges of withholding information from Congress about secret government efforts to support the Nicaraguan contra rebels during a ban on such aid. U.S. District Chief Judge Aubrey E. Robinson, Jr., sentenced Abrams November 15, 1991, to two years probation and 100 hours community service. Abrams was pardoned December 24, 1992.

Carl R. Channell - Pleaded guilty April 29, 1987, to one felony count of conspiracy to defraud the United States. U.S. District Judge Stanley S. Harris sentenced Channell on July 7, 1989, to two years probation.

Thomas G. Clines - Indicted February 22, 1990, on four felony counts of underreporting his earnings to the IRS in the 1985 and 1986 tax years; and falsely stating on his 1985 and 1986 tax returns that he had no foreign financial accounts. On September 18, 1990, Clines was found guilty of all charges. U.S. District Judge Norman P. Ramsey in Baltimore, Md., on December 13, 1990, sentenced Clines to 16 months in prison and \$40,000 in fines. He was ordered to pay the cost of the prosecution. The Fourth Circuit U.S. Court of Appeals in Richmond, Va., on February 27, 1992, upheld the convictions. Clines served his prison sentence.

Alan D. Fiers, Jr. - Pleaded guilty July 9, 1991, to two misdemeanor counts of withholding information from Congress about secret efforts to aid the Nicaraguan contras. U.S. District

Chief Judge Aubrey E. Robinson, Jr., sentenced Fiers January 31, 1992, to one year probation and 100 hours community service. Fiers was pardoned December 24, 1992.

Clair E. George - Indicted September 6, 1991, on 10 counts of perjury, false statements and obstruction in connection with congressional and Grand Jury investigations. George's trial on nine counts ended in a mistrial on August 26, 1992. Following a second trial on seven counts, George was found guilty December 9, 1992, of two felony charges of false statements and perjury before Congress. The maximum penalty for each count was five years in prison and \$250,000 in fines. U.S. District Judge Royce C. Lamberth set sentencing for February 18, 1993. George was pardoned on December 24, 1992, before sentencing occurred.

Albert Hakim - Pleaded guilty November 21, 1989, to a misdemeanor of supplementing the salary of Oliver L. North. Lake Resources Inc., in which Hakim was the principal shareholder, pleaded guilty to a corporate felony of theft of government property in diverting Iran arms sales proceeds to the Nicaraguan contras and other activities. Hakim was sentenced by U.S. District Judge Gerhard A. Gesell on February 1, 1990, to two years probation and a \$5,000 fine; Lake Resources was ordered dissolved.

Robert C. McFarlane - Pleaded guilty March 11, 1988, to four misdemeanor counts of withholding information from Congress. U.S. District Chief Judge Aubrey E. Robinson, Jr., sentenced McFarlane on March 3, 1989, to two years probation, \$20,000 in fines and 200 hours community service. McFarlane was pardoned December 24, 1992.

Richard R. Miller - Pleaded guilty May 6, 1987, to one felony count of conspiracy to defraud the United States. U.S. District Judge Stanley S. Harris sentenced Miller on July 6, 1989, to two years probation and 120 hours of community service.

Oliver L. North - Indicted March 16, 1988, on 16 felony counts. After standing trial on 12, North was convicted May 4, 1989 of three charges: accepting an illegal gratuity, aiding and abetting in the obstruction of a congressional inquiry, and destruction of documents. He was sentenced by U.S. District Judge Gerhard A. Gesell on July 5, 1989, to a three-year suspended prison term, two years probation, \$150,000 in fines and 1,200 hours community service. A three-judge appeals panel on July 20, 1990, vacated North's conviction for further proceedings to determine whether his immunized testimony influenced witnesses in the trial. The Supreme Court declined to review the case. Judge Gesell dismissed the case September 16, 1991, after hearings on the immunity issue, on the motion of Independent Counsel.

John M. Poindexter - Indicted March 16, 1988, on seven felony charges. After standing trial on five charges, Poindexter was found guilty April 7, 1990, on all counts: conspiracy (obstruction of inquiries and proceedings, false statements, falsification, destruction and removal of documents); two counts of obstruction of Congress and two counts of false statements. U.S. District Judge Harold H. Greene sentenced Poindexter June 11, 1990, to six months in prison on each count, to be served concurrently. A three-judge appeals panel on November 15, 1991, reversed the convictions on the ground that Poindexter's immunized testimony may have influenced the trial testimony of witnesses. The Supreme Court on December 7, 1992, declined to review the case. In 1993, the indictment was dismissed on the motion of Independent Counsel.

Richard V. Secord - Indicted March 16, 1988 on six felony charges. On May 11, 1989, a second indictment was issued charging nine counts of impeding and obstructing the Select Iran/contra Committees. Secord was scheduled to stand trial on 12 charges. He pleaded guilty November 8, 1989, to one felony count of false statements to Congress. Secord was sentenced by U.S. District Chief Judge Aubrey E. Robinson, Jr., on January 24, 1990, to two years probation.

Pre-trial Pardons

Duane R. Clarridge - Indicted November 26, 1991, on seven counts of perjury and false statements about a secret shipment of U.S. HAWK missiles to Iran. The maximum penalty for each count was five years in prison and \$250,000 in fines. U.S. District Judge Harold H. Greene set a March 15, 1993, trial date. Clarridge was pardoned December 24, 1992.

Caspar W. Weinberger - Indicted June 16, 1992, on five counts of obstruction, perjury and false statements in connection with congressional and Independent Counsel investigations of Iran/ contra. On September 29, the obstruction count was dismissed. On October 30, a second indictment was issued, charging one false statement count. The second indictment was dismissed December 11, leaving four counts remaining. The maximum penalty for each count was five years in prison and \$250,000 in fines. U.S. District Judge Thomas F. Hogan set a January 5, 1993, trial date. Weinberger was pardoned December 24, 1992.

Dismissal

Joseph F. Fernandez - Indicted June 20, 1988 on five counts of conspiracy to defraud the United States, obstructing the inquiry of the Tower Commission and making false statements to government agencies. The case was dismissed in the District of Columbia for venue reasons on the motion of Independent Counsel. A four-count indictment was issued in the Eastern District of Virginia on April 24, 1989. U.S. District Judge Claude M. Hilton dismissed the four-count case November 24, 1989, after Attorney General Richard Thornburgh blocked the disclosure of classified information ruled relevant to the defense. The U.S. Court of Appeals for the Fourth Circuit in Richmond, Va., on September 6, 1990, upheld Judge Hilton's rulings under the Classified Information Procedures Act (CIPA). On October 12, 1990, the Attorney General filed a final declaration that he would not disclose the classified information.

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