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Report of the Congressional Committees Investigating the

Iran-Contra Affair

With
Supplemental, Minority, and Additional Views
November 1987



U.S. Senate Select Committee
On Secret Military Assistance to Iran
And the Nicaraguan Opposition

U.S. House of Representatives
Select Committee to Investigate
Covert Arms Transactions with Iran

Union Calendar No. 277

100th Congress, 1st Session

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Supplemental, Minority, and Additional Views

Daniel K. Inouye, *Chairman,*
Senate Select Committee
Lee H. Hamilton, *Chairman,*
House Select Committee



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On Secret Military Assistance to Iran
And the Nicaraguan Opposition

U.S. House of Representatives
Select Committee to Investigate
Covert Arms Transactions with Iran

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SELECT COMMITTEE ON SECRET MILITARY
ASSISTANCE TO IRAN AND THE NICARAGUAN OPPOSITION
WASHINGTON, DC 20510

November 17, 1987

Honorable John C. Stennis
President pro tempore
United States Senate
Washington, DC

Dear Mr. President:

We have the pleasure to transmit herewith, pursuant to Senate Resolution 23, the final Report of the Senate Select Committee on Secret Military Assistance to Iran and the Nicaraguan Opposition. We will submit such other volumes of Appendices to the Report as are authorized and as they become available.

Sincerely,

Daniel K. Inouye
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November 13, 1987

The Honorable Jim Wright
Speaker of the House
U.S. Capitol
Washington, D.C.

Dear Mr. Speaker:

Pursuant to the provisions of House Resolutions 12 and 294, 100th Congress, First Session, I transmit herewith the Report of the Congressional Committees Investigating the Iran-Contra Affair, which the Select Committee to Investigate Covert Arms Transactions with Iran ordered reported to the House on November 5, 1987. The report includes findings, conclusions and recommmendations, together with supplemental, minority and additional views.

Within the next 30 days, the Select Committee will file for printing the accompanying appendices to the report. The complete set of appendices will include volumes containing a chronology of events; a testimonial chronology; miscellaneous documents used as sources in the committee report; depositions conducted by the Committees; and an index to the report and appendices. After filing, the appendices will, where appropriate, be declassified before they are printed. If necessary, the Committees will also file an appendix containing classified information. The appendices will be published as soon as possible after declassification.

Sincerely yours,

Lee H. Hamilton
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Note on Citations in This Report

Footnotes appear at the end of the each chapter and refer to a variety of sources available to the Committees. The most common are:

1. *Hearings.* Refers to *The Iran-Contra Investigation: Joint Hearings Before the House Select Committee to Investigate Covert Arms Transactions with Iran and the Senate Select Committee on Secret Military Assistance to Iran and the Nicaraguan Opposition,* 100th Cong., 1st Sess. (Washington: Government Printing Office, 1987, 13 vols.). Most page references in the footnotes are to these volumes. Because of publication production necessities, however, some references are to the original transcripts of the hearings. A table converting transcript page numbers to hearings page numbers is published in the *Hearings.*

2. Dep. or Depo. A sworn deposition taken in the presence of one or more Members of the Committees and/or counsel for the Committees, and counsel for the deponent. Please consult other volumes of the Committees' publications for further information.

3. Int. An unsworn interview conducted by one or more Committee Members and/or Committee counsel, with counsel for the interviewee present if the interviewee wished.

4. PROF Notes. Messages generated on a computer system used by the National Security Council staff. The exact time and date of the message are recorded.

5. *Tower. Report of the President's Special Review Board,* John Tower, Chairman (Washington: Government Printing Office, Feb. 26, 1987).

6. Letter and Number Codes. Source and Document File Codes for materials that have been assigned a Senate letter code and stamped page number. These materials are stored in the Committees' archives in Washington, D.C.

Preface
Origins of this Report

On November 3, 1986, Al-Shiraa, a Lebanese weekly, reported that the United States had secretly sold arms to Iran. Subsequent reports claimed that the purpose of the sales was to win the release of American hostages in Lebanon. These reports seemed unbelievable: Few principles of U.S. policy were stated more forcefully by the Reagan Administration than refusing to traffic with terrorists or sell arms to the Government of the Ayatollah Khomeini of Iran.

Although the Administration initially denied the reports, by mid-November it was clear that the accounts were true. The United States had sold arms to Iran and had hoped thereby to gain the release of American hostages in Lebanon. However, even though the Iranians received the arms, just as many Americans remained hostage as before. Three had been freed, but three more had been taken during the period of the sales.

There was still another revelation to come: on November 25 the Attorney General announced that proceeds from the Iran arms sales had been "diverted" to the Nicaraguan resistance at a time when U.S. military aid to the Contras was prohibited.

Iran and Nicaragua—twin thorns of U.S. foreign policy in the 1980s—were thus linked in a credibility crisis that raised serious questions about the adherence of the Administration to the Constitutional processes of Government.

The public and Members of Congress expressed deep concern over the propriety and legality of actions by the staff of the National Security Council (NSC) and other officers of the Government regarding both the arms sales and the secret assistance to the Contras.

The issue of U.S. support for the Contras was not new. The President and Congress had engaged in vigorous debate over the proper course of U.S. policy, and Congress had barred U.S. support of Contra military operations for almost 2 years. Subsequently, senior Administration officials had assured Committees of Congress repeatedly that the Administration was abiding by the law.

The Iran-Contra Affair, as it came to be known, carried such serious implications for U.S. foreign policy, and for the rule of law in a democracy, that the 100th Congress determined to undertake its own investigation of the Affair.

The inquiry formally began on January 6, 1987, when the Senate, by S. Res. 23, established the Select Committee on Secret Military Assistance to Iran and the Nicaraguan Opposition. The next day, the House, by H. Res. 12, established the Select Committee to Investigate Covert Arms Transactions with Iran. The two Chambers charged their respective Committees with investigating four major areas: arms sales to Iran, the possible diversion of funds to aid the Contras, violations of Federal law, and the involvement of the NSC staff in the conduct of foreign policy.

The two Committees took the unprecedented step of merging their investigations and hearings and sharing all the information they obtained. The staffs of the two Committees worked together in reviewing more than 300,000 documents and interviewing or examining more than 500 witnesses. The Committees held 40 days of joint public hearings

and several executive sessions. The two Committees then decided to combine their findings in a joint Report.

The conclusions in this Report are based on a record marred by inconsistent testimony and failure on the part of several witnesses to recall key matters and events. Moreover, a key witness—Director of Central Intelligence William J. Casey—died, and members of the NSC staff shredded relevant contemporaneous documents in the fall of 1986. Consequently, objective evidence that could have resolved the inconsistencies and overcome the failures of memory was denied to the Committees—and to history.

Under the American system, Government is accountable to the people. A public bipartisan investigation such as this one helps to ensure that the principle of accountability is enforced for all officials and policies. It strengthens the national commitment to the democratic values that have guided the United States for two centuries.

The President cooperated with the investigation. He did not assert executive privilege; he instructed all relevant agencies to produce their documents and witnesses; and he made extracts available from his personal diaries, although he rejected the Committees' request to refer to those entries in this Report on the ground that he did not wish to establish a precedent for future Presidents.

The Committees also received unprecedented cooperation from a sovereign nation, the State of Israel. Although not willing to allow its officials to be examined, the Government of Israel assembled and furnished the Committees with extensive materials and information, including information affecting its national security.

The Committees' investigation of the Iran-Contra Affair is not the first, following as it does the findings of the Senate Select Committee on Intelligence and the President's Special Review Board (known as the Tower Board); nor will it be the last, for the investigation of the Independent Counsel assigned to this matter continues.

But the Committees hope this Report will make a contribution by helping to explain what happened in the Iran-Contra Affair, and by helping to restore the public's confidence in this Nation's Constitutional system of Government.

Section I
The Report

Part I
Executive Summary

The full story of the Iran-Contra Affair is complicated, and, for this Nation, profoundly sad. In the narrative portion of this Report, the Committees present a comprehensive account of the facts, based on 10 months of investigation, including 11 weeks of hearings.

But the facts alone do not explain how or why the events occurred. In this Executive Summary, the Committees focus on the key issues and offer their conclusions. Minority, supplemental, and additional views are printed in Section II and Section III.

Summary of the Facts

The Iran-Contra Affair had its origin in two unrelated revolutions in Iran and Nicaragua.

In Nicaragua, the long-time President, General Anastasio Somoza Debayle, was overthrown in 1979 and replaced by a Government controlled by Sandinista leftists.

In Iran, the pro-Western Government of the Shah Mohammed Riza Pahlavi was overthrown in 1979 by Islamic fundamentalists led by the Ayatollah Khomeini. The Khomeini Government, stridently anti-American, became a supporter of terrorism against American citizens.

Nicaragua

United States policy following the revolution in Nicaragua was to encourage the Sandinista Government to keep its pledges of pluralism and democracy. However, the Sandinista regime became increasingly anti-American and autocratic; began to aid a leftist insurgency in El Salvador; and turned toward Cuba and the Soviet Union for political, military, and economic assistance. By December 1981, the United States had begun supporting the Nicaraguan Contras, armed opponents of the Sandinista regime.

The Central Intelligence Agency (CIA) was the U.S. Government agency that assisted the Contras. In accordance with Presidential decisions, known as Findings, and with funds appropriated by Congress, the CIA armed, clothed, fed, and supervised the Contras. Despite this assistance, the Contras failed to win widespread popular support or military victories within Nicaragua.

Although the President continued to favor support of the Contras, opinion polls indicated that a majority of the public was not supportive. Opponents of the Administration's policy feared that U.S. involvement with the Contras would embroil the United States in another Vietnam. Supporters of the policy feared that, without U.S. support for the Contras, the Soviets would gain a dangerous toehold in Central America.

Congress prohibited Contra aid for the purpose of overthrowing the Sandinista Government in fiscal year 1983, and limited all aid to the Contras in fiscal year 1984 to $24 million. Following disclosure in March and April 1984 that the CIA had a role in connection with the mining of the Nicaraguan harbors without adequate notification to Congress, public criticism mounted and the Administration's Contra policy lost much of its support within Congress. After further vigorous debate, Congress exercised its Constitutional power over appropriations and cut off all funds for the Contras' military and paramilitary operations. The statutory provision cutting off funds, known as the Boland Amendment, was part of a fiscal year 1985 omnibus appropriations bill, and was signed

into law by the President on October 12, 1984.

Still, the President felt strongly about the Contras, and he ordered his staff, in the words of his National Security Adviser, to find a way to keep the Contras "body and soul together." Thus began the story of how the staff of a White House advisory body, the NSC, became an operational entity that secretly ran the Contra assistance effort, and later the Iran initiative. The action officer placed in charge of both operations was Lt. Col. Oliver L. North.

Denied funding by Congress, the President turned to third countries and private sources. Between June 1984 and the beginning of 1986, the President, his National Security Adviser, and the NSC staff secretly raised $34 million for the Contras from other countries. An additional $2.7 million was provided for the Contras during 1985 and 1986 from private contributors, who were addressed by North and occasionally granted photo opportunities with the President. In the middle of this period, Assistant Secretary of State A. Langhorne Motley—from whom these contributions were concealed—gave his assurance to Congress that the Administration was not "soliciting and/or encouraging third countries" to give funds to the Contras because, as he conceded, the Boland Amendment prohibited such solicitation.

The first contributions were sent by the donors to bank accounts controlled and used by the Contras. However, in July 1985, North took control of the funds and—with the support of two National Security Advisers (Robert McFarlane and John Poindexter) and, according to North, Director Casey—used those funds to run the covert operation to support the Contras.

At the suggestion of Director Casey, North recruited Richard V. Secord, a retired Air Force Major General with experience in special operations. Secord set up Swiss bank accounts, and North steered future donations into these accounts. Using these funds, and funds later generated by the Iran arms sales, Secord and his associate, Albert Hakim, created what they called "the Enterprise," a private organization designed to engage in covert activities on behalf of the United States.

The Enterprise, functioning largely at North's direction, had its own airplanes, pilots, airfield, operatives, ship, secure communications devices, and secret Swiss bank accounts. For 16 months, it served as the secret arm of the NSC staff, carrying out with private and non-appropriated money, and without the accountability or restrictions imposed by law on the CIA, a covert Contra aid program that Congress thought it had prohibited.

Although the CIA and other agencies involved in intelligence activities knew that the Boland Amendment barred their involvement in covert support for the Contras, North's Contra support operation received logistical and tactical support from various personnel in the CIA and other agencies. Certain CIA personnel in Central America gave their assistance. The U.S. Ambassador in Costa Rica, Lewis Tambs, provided his active assistance. North also enlisted the aid of Defense Department personnel in Central America, and obtained secure communications equipment from the National Security Agency. The Assistant Secretary of State with responsibility for the region, Elliott Abrams, professed ignorance of this support. He later stated that he had been "careful not to ask North lots of questions."

By Executive Order and National Security Decision Directive issued by President Reagan, all covert operations must be approved by the President personally and in writing. By statute, Congress must be notified about each covert action. The funds used for such actions, like all government funds, must be strictly accounted for.

The covert action directed by North, however, was not approved by the President in writing. Congress was not notified about it. And the funds to support it were never accounted for. In short, the operation functioned without any of the accountability required of Government activities. It was an

evasion of the Constitution's most basic check on Executive action—the power of the Congress to grant or deny funding for Government programs.

Moreover, the covert action to support the Contras was concealed from Congress and the public. When the press reported in the summer of 1985 that the NSC staff was engaged in raising money and furnishing military support to the Contras, the President assured the public that the law was being followed. His National Security Adviser, Robert C. McFarlane, assured Committees of Congress, both in person and in writing, that the NSC staff was obeying both the spirit and the letter of the law, and was neither soliciting money nor coordinating military support for the Contras.

A year later, McFarlane's successor, Vice Admiral John M. Poindexter, repeated these assurances to Congressional Committees. Then, with Poindexter's blessing, North told the House Intelligence Committee he was involved neither in fundraising for, nor in providing military advice to, the Contras.

When one of Secord's planes was shot down over Nicaragua on October 5, 1986, the President and several administration spokesmen assured the public that the U.S. Government had no connection with the flight or the captured American crew member, Eugene Hasenfus. Several senior Government officials, including Elliott Abrams, gave similar assurances to Congress.

Two months later, McFarlane told Congressional Committees that he had no knowledge of contributions made by a foreign country, Country 2, to the Contras, when in fact McFarlane and the President had discussed and welcomed $32 million in contributions from that country. In addition, Abrams initially concealed from Congress—in testimony given to several Committees—that he had successfully solicited a contribution of $10 million from Brunei.

North conceded at the Committees' public hearings that he had participated in making statements to Congress that were "false," "misleading," "evasive and wrong."

During the period when the Administration was denying to Congress that it was involved in supporting the Contras' war effort, it was engaged in a campaign to alter public opinion and change the vote in Congress on Contra aid. Public funds were used to conduct public relations activities; and certain NSC staff members, using the prestige of the White House and the promise of meetings with the President, helped raise private donations both for media campaigns and for weapons to be used by the Contras.

Pursuant to a Presidential directive in 1983 the Administration adopted a "public diplomacy" program to promote the President's Central American policy. The program was conducted by an office in the State Department known as the Office for Public Diplomacy for Latin America and the Caribbean, (S/LPD). S/LPD's activities were coordinated not within the State Department, but by an interagency working group established by the NSC. The principal NSC staff officer was a former senior CIA official, with experience in covert operations, who had been detailed to the NSC staff for a year with Casey's approval, and who upon retirement from the CIA became a Special Assistant to the President with responsibility for public diplomacy matters.

S/LPD produced and widely disseminated a variety of pro-Contra publications and arranged speeches and press conferences. It also disseminated what one official termed "white propaganda": pro-Contra newspaper articles by paid consultants who did not disclose their connection to the Administration. Moreover, under a series of sole source contracts in 1985 and 1986, S/LPD paid more than $400,000 for pro Contra public relations work to International Business Communications (IBC), a company owned by Richard Miller, whose organization was described by one White House representative as a "White House outside the White House."

The Administration, like Members of Congress, may appeal directly to the people for support of its positions; and government agencies may legitimately disseminate infor-

mation and educational materials to the public. However, by law appropriated funds may not be used to generate propaganda "designed to influence a Member of Congress;" and by law, as interpreted by the Office of the Comptroller General, appropriated funds may not be used by the State Department for "covert" propaganda activities. A GAO report concluded that S/LPD's white propaganda activities violated the ban on arranging "covert propaganda."

Private funds were also used. North and Miller helped Carl R. "Spitz" Channell raise $10 million, most of which went to Channell's tax-exempt organization, the National Endowment for the Preservation of Liberty ("NEPL"). They arranged numerous "briefings" at the White House complex on Central America by Administration officials for groups of potential contributors. Following these briefings, Channell reconvened the groups at the Hay-Adams Hotel, and made a pitch for tax-deductible contributions to NEPL's Central America "public education" program or, in some individual cases, for weapons. Channell's major contributors were given private briefings by North, and were afforded private visits and photo sessions with the President. On one occasion, President Reagan participated in a briefing.

Using the donated money, Channell ran a series of television advertisements in 1985 and 1986, some of which were directed at television markets covering the home districts of Congressmen considered to be "swing" votes on Contra aid. One series of advertisements was used to attack Congressman Mike Barnes, a principal opponent of Contra aid, and one of the Congressmen to whom Administration officials had denied violating the Boland Amendment in September of 1985. Channell later boasted to North that he had "participated in a campaign to ensure Congressman Barnes' defeat."

Of the $10 million raised by North, Channell and Miller, more than $1 million was used for pro-Contra publicity. Approximately $2.7 million was sent through IBC and off-shore accounts of another Miller-controlled company to Secord's Swiss accounts, or to Calero's account in Miami. Most of the remainder was spent on salaries and expenses for Channell, Miller and their business associates.

NEPL's charter did not contemplate raising funds for a covert war in Nicaragua, and the Internal Revenue Service never approved such activity when NEPL was granted exempt status. As a consequence, Channell and Miller have each pleaded guilty to the crime of conspiring to defraud the United States Treasury of revenues "by subverting and corrupting the lawful purposes of NEPL." Channell named North as a co-conspirator.

In private fundraising, as in the "white propaganda" campaign, the goal of supporting the Contras was allowed to override sensitivity to law and to accepted norms of behavior.

Iran

The NSC staff was already engaged in covert operations through Secord when, in the summer of 1985, the Government of Israel proposed that missiles be sold to Iran in return for the release of seven American hostages held in Lebanon and the prospect of improved relations with Iran. The Secretaries of State and Defense repeatedly opposed such sales to a government designated by the United States as a supporter of international terrorism. They called it a straight arms-for-hostages deal that was contrary to U.S. public policy. They also argued that these sales would violate the Arms Export Control Act, as well as the U.S. arms embargo against Iran. The embargo had been imposed after the taking of hostages at the U.S. Embassy in Tehran on November 4, 1979, and was continued because of the Iran-Iraq war.

Nevertheless, in the summer of 1985 the President authorized Israel to proceed with the sales. The NSC staff conducting the Contra covert action also took operational control of implementing the President's decision on arms sales to Iran. The President did

not sign a Finding for this covert operation, nor did he notify the Congress.

Israel shipped 504 TOW anti-tank missiles to Iran in August and September 1985. Although the Iranians had promised to release most of the American hostages in return, only one, Reverend Benjamin Weir, was freed. The President persisted. In November, he authorized Israel to ship 80 HAWK anti-aircraft missiles in return for all the hostages, with a promise of prompt replenishment by the United States, and 40 more HAWKs to be sent directly by the United States to Iran. Eighteen HAWK missiles were actually shipped from Israel in November 1985, but no hostages were released.

In early December 1985, the President signed a retroactive Finding purporting to authorize the November HAWK transaction. That Finding contained no reference to improved relations with Iran. It was a straight arms-for-hostages Finding. National Security Adviser Poindexter destroyed this Finding a year later because, he testified, its disclosure would have been politically embarrassing to the President.

The November HAWK transaction had additional significance. The Enterprise received a $1 million advance from the Israelis. North and Secord testified this was for transportation expenses in connection with the 120 HAWK missiles. Since only 18 missiles were shipped, the Enterprise was left with more than $800,000 in spare cash. North directed the Enterprise to retain the money and spend it for the Contras. The "diversion" had begun.

North realized that the sale of missiles to Iran could be used to support the Contras. He told Israeli Defense Ministry officials on December 6, 1985, one day after the President signed the Finding, that he planned to generate profits on future arms sales for activities in Nicaragua.

On December 7, 1985, the President and his top advisers met again to discuss the arms sales. Secretaries Shultz and Weinberger objected vigorously once more, and Weinberger argued that the sales would be illegal. After a meeting in London with an Iranian interlocutor and the Israelis, McFarlane recommended that the sales be halted. Admiral John Poindexter (the new National Security Adviser), and Director Casey were of the opposite opinion.

The President decided to go forward with the arms sales to get the hostages back. He signed a Finding on January 6, 1986, authorizing more shipments of missiles for the hostages. When the CIA's General Counsel pointed out that authorizing Israel to sell its U.S.-manufactured weapons to Iran might violate the Arms Export Control Act, the President, on the legal advice of the Attorney General, decided to authorize direct shipments of the missiles to Iran by the United States and signed a new Finding on January 17, 1986. To carry out the sales, the NSC staff turned once again to the Enterprise.

Although North had become skeptical that the sales would lead to the release of all the hostages or a new relationship with Iran, he believed that the prospect of generating funds for the Contras was "an attractive incentive" for continuing the arms sales. No matter how many promises the Iranians failed to keep throughout this secret initiative, the arms sales continued to generate funds for the Enterprise, and North and his superior, Poindexter, were consistent advocates for their continuation. What North and Poindexter asserted in their testimony that they did not know, however, was that most of these arms sales profits would remain with the Enterprise and never reach the Contras.

In February 1986, the United States, acting through the Enterprise, sold 1,000 TOWs to the Iranians. The U.S. also provided the Iranians with military intelligence about Iraq. All of the remaining American hostages were supposed to be released upon Iran's receipt of the first 500 TOWs. None was. But the transaction was productive in one respect. The difference between what the Enterprise paid the United States for the missiles and what it received from Iran was more than $6 million. North directed part of

this profit for the Contras and for other covert operations. Poindexter testified that he authorized this "diversion."

The diversion, for the Contras and other covert activities, was not an isolated act by the NSC staff. Poindexter saw it as "implementing" the President's secret policy that had been in effect since 1984 of using non-appropriated funds following passage of the Boland Amendment.

According to North, CIA Director Casey saw the "diversion" as part of a more grandiose plan to use the Enterprise as a "stand-alone," "off-the-shelf," covert capacity that would act throughout the world while evading Congressional review. To Casey, Poindexter, and North, the diversion was an integral part of selling arms to Iran and just one of the intended uses of the proceeds.

In May 1986, the President again tried to sell weapons to get the hostages back. This time, the President agreed to ship parts for HAWK missiles but only on condition that all the American hostages in Lebanon be released first. A mission headed by Robert McFarlane, the former National Security Adviser, traveled to Tehran with the first installment of the HAWK parts. When the mission arrived, McFarlane learned that the Iranians claimed they had never promised to do anything more than try to obtain the hostages' release. The trip ended amid misunderstanding and failure, although the first installment of HAWK parts was delivered.

The Enterprise was paid, however, for all of the HAWK parts, and realized more than an $8 million profit, part of which was applied, at North's direction, to the Contras. Another portion of the profit was used by North for other covert operations, including the operation of a ship for a secret mission. The idea of an off-the-shelf, stand-alone covert capacity had become operational.

On July 26, 1986, another American hostage, Father Lawrence Jenco, was released. Despite all the arms sales, he was only the second hostage freed, and the first since September 1985. Even though McFarlane had vowed at the Tehran meeting not to deliver the remainder of the HAWK parts until all the hostages were released, the Administration capitulated again. The balance of the HAWK parts was shipped when Father Jenco was released.

In September and October 1986, the NSC staff began negotiating with a new group of Iranians, the "Second Channel," that Albert Hakim had opened, in part, through promises of bribes. Although these Iranians allegedly had better contacts with Iranian officials, they, in fact, represented the same principals as did the First Channel and had the same arrangement in mind: missiles for hostages. Once again, the Administration insisted on release of all the hostages but settled for less.

In October, after a meeting in London, North left Hakim to negotiate with the Iranians. Hakim made no secret of his desire to make large profits for himself and General Secord in the $15 billion-a-year Iranian market if relations with the United States could be restored. Thus, he had every incentive to make an agreement, whatever concessions might be required.

As an unofficial "ambassador" selected by North and Secord, Hakim produced a remarkable nine-point plan, subsequently approved by North and Poindexter, under which the United States would receive "one and one half" hostages (later reduced to one). Under the plan, the United States agreed not only to sell the Iranians 500 more TOWs, but Secord and Hakim promised to develop a plan to induce the Kuwaiti Government to release the Da'wa prisoners. (Seventeen Kuwaiti prisoners, connected to "al-Dawa," an Iranian revolutionary group, had been convicted and imprisoned for their part in the December 12, 1983, attacks in Kuwait on the U.S. Embassy, a U.S. civilian compound, the French Embassy, and several Kuwaiti Goverment facilities.) The plan to obtain the release of the Da'wa prisoners did not succeed, but the TOW missiles were sold for use by the Iranian Revolutionary Guard. Following the transfer of these TOWs, a third hostage, David Jacobsen, was released

on November 2, 1986, and more profit was generated for the Enterprise.

Poindexter testified that the President approved the nine-point plan. But other testimony raises questions about this assertion. Regardless of what Poindexter may have told the President, Secretary Shultz testified that when he informed the President on December 14, 1986, that the nine-point plan included a promise about the release of the Da'wa prisoners in Kuwait, the President reacted with shock, "like he had been kicked in the belly."

During the negotiations with the Second Channel, North and Secord told the Iranians that the President agreed with their position that Iraq's President, Saddam Hussein, had to be removed and further agreed that the United States would defend Iran against Soviet aggression. They did not clear this with the President and their representations were flatly contrary to U.S. policy.

The decision to designate private parties—Secord and Hakim—to carry out the arms transactions had other ramifications. First, there was virtually no accounting for the profits from the arms deals. Even North claimed that he did not know how Secord and Hakim actually spent the money committed to their custody. The Committees' investigation revealed that of the $16.1 million profit from the sales of arms to Iran only about $3.8 million went to support the Contras (the amount representing "the diversion"). All told, the Enterprise received nearly $48 million from the sale of arms to the Contras and Iran, and in contributions directed to it by North. A total of $16.5 million was used to support the Contras or to purchase the arms sold to (and paid for by) the Contras; $15.2 million was spent on Iran; Hakim, Secord, and their associate, Thomas Clines, took $6.6 million in commissions and other profit distributions; almost $1 million went for other covert operations sponsored by North; $4.2 million was held in "reserves" for use in future operations; $1.2 million remained in Swiss bank accounts of the Enterprise; and several thousand dollars were used to pay for a security system at North's residence.

Second, by permitting private parties to conduct the arms sales, the Administration risked losing control of an important foreign policy initiative. Private citizens—whose motivations of personal gain could conflict with the interests of this country—handled sensitive diplomatic negotiations, and purported to commit the United States to positions that were anathema to the President's public policy and wholly unknown to the Secretary of State.

The Coverup

The sale of arms to Iran was a "significant anticipated intelligence activity." By law, such an activity must be reported to Congress "in a timely fashion" pursuant to Section 501 of the National Security Act. If the proposal to sell arms to Iran had been reported, the Senate and House Intelligence Committees would likely have joined Secretaries Shultz and Weinberger in objecting to this initiative. But Poindexter recommended—and the President decided—not to report the Iran initiative to Congress.

Indeed, the Administration went to considerable lengths to avoid notifying Congress. The CIA General Counsel wrote on January 15, 1986, "the key issue in this entire matter revolves around whether or not there will be reports made to Congress." Shortly thereafter, the transaction was restructured to avoid the pre-shipment reporting requirements of the Arms Export Control Act, and place it within the more limited reporting requirements of the National Security Act. But even these reporting requirements were ignored. The President failed to notify the group of eight (the leaders of each party in the House and Senate, and the Chairmen and Ranking Minority Members of the Intelligence Committees) specified by law for unusually sensitive operations.

After the disclosure of the Iran arms sales on November 3, 1986, the American public was still not told the facts. The President sought to avoid any comment on the ground

that it might jeopardize the chance of securing the remaining hostages' release. But it was impossible to remain silent, and inaccurate statements followed.

In his first public statement on the subject on November 6, the President said that the reports concerning the arms sales had "no foundation." A week later, on November 13, the President conceded that the United States had sold arms, but branded as "utterly false" allegations that the sales were in return for the release of the hostages. The President also maintained that there had been no violations of Federal law.

At his news conference on November 19, 1986, he denied that the United States was involved in the Israeli sales that occurred prior to the January 17, 1986 Finding. The President was asked:

> Mr. President . . . are you telling us tonight that the only shipments with which we were involved were the one or two that followed your January 17 Finding and that . . . there were no other shipments which the U.S. condoned?

The President replied:

> That's right. I'm saying nothing, but the missiles we sold.

And, on November 25, 1986, the Attorney General—with the President at his side—announced at a press conference that the President did not know of the Israeli shipments until after they had occurred. He stated that the President learned of the November 1985 HAWK shipment in February 1986.

In fact, however, the Israeli sales, including the HAWK shipment, were implemented with the knowledge and approval of the President and his top advisers; and the President himself told Shultz on the day of his press conference that he had known of the November 1985 shipment when it occurred. McFarlane, Poindexter, and North were intimately involved in the Israeli shipments; and the CIA had actually transported one delivery from Israel to Iran.

While the President was denying any illegality, his subordinates were engaging in a coverup. Several of his advisers had expressed concern that the 1985 sales violated the Arms Export Control Act, and a "cover story" had been agreed on if these arms sales were ever exposed. After North had three conversations on November 18, 1986, about the legal problems with the 1985 Israeli shipments, he, Poindexter, Casey, and McFarlane all told conforming false stories about U.S. involvement in these shipments.

With McFarlane's help, North rewrote NSC staff chronologies on November 19 and 20, 1986, in such a way that they denied contemporaneous knowledge by the Administration of Israel's shipments to Iran in 1985. They asserted at one point that the U.S. Government believed the November 1985 shipment consisted of oil-drilling equipment, not arms.

Poindexter told Congressional Committees on November 21, 1986, that the United States had disapproved of the Israeli shipments and that, until the day before his briefing, he believed that Administration officials did not know about any of them until after they had occurred. He then destroyed the only Finding signed by the President that showed the opposite.

Casey told Congressional Committees on November 21, 1986, that although a CIA proprietary airline had actually carried missiles to Iran from Israel in 1985, the proprietary had been told the cargo was "oil-drilling equipment."

McFarlane told the Attorney General on November 21, 1986, that the Israelis said they were shipping oil-drilling equipment in November 1985 and that McFarlane did not learn otherwise until May 1986.

On learning that the President had authorized the Attorney General to gather the relevant facts, North and Poindexter shredded and altered official documents on November 21, 1986, and later that weekend. On November 25, 1986, North's secretary concealed classified documents in her clothing

and, with North's knowledge, removed them from the White House.

According to North, a "fall guy" plan was proposed by Casey in which North and, if necessary, Poindexter, would take the responsibility for the covert Contra support operation and the diversion. On Saturday November 22, 1986, in the midst of these efforts to conceal what had happened, Poindexter had a two and one half hour lunch with Casey. Yet Poindexter could not recall anything that was discussed.

North testified that he assured Poindexter that he had destroyed all documents relating to the diversion. The diversion nevertheless was discovered on November 22, 1986, when a Justice Department official, assisting the Attorney General's fact-finding inquiry, found a "diversion memorandum" that had escaped the shredder.

Prior to the discovery of the diversion memorandum, each interview by the Attorney General's fact finding team had been conducted in the presence of two witnesses, and careful notes were taken in accordance with standard professional practices. After discovery of the diversion memorandum—which itself gave rise to an inference of serious wrongdoing—the Attorney General departed from these standard practices. A series of important interviews—Poindexter, McFarlane, Casey, Regan, and Bush—was conducted by the Attorney General alone, and no notes were made.

The Attorney General then announced at his November 25 press conference that the diversion had occurred and that the President did not know of it. But he made several incorrect statements about his own investigation. He stated that the President had not known of the Israeli pre-Finding shipments, and he stated that the proceeds of the arms sales had been sent directly from the Israelis to the Contras. These statements were both mistaken and inconsistent with information that had been received during the Attorney General's fact-finding inquiry.

Poindexter testified to these Committees that the President did not know of the diversion. North testified that while he assumed the President had authorized each diversion, Poindexter told him on November 21, 1986, that the President had never been told of the diversion.

In light of the destruction of material evidence by Poindexter and North and the death of Casey, all of the facts may never be known. The Committees cannot even be sure whether they heard the whole truth or whether Casey's "fall guy" plan was carried out at the public hearings. But enough is clear to demonstrate beyond doubt that fundamental processes of governance were disregarded and the rule of law was subverted.

Findings and Conclusions

The common ingredients of the Iran and Contra policies were secrecy, deception, and disdain for the law. A small group of senior officials believed that they alone knew what was right. They viewed knowledge of their actions by others in the Government as a threat to their objectives. They told neither the Secretary of State, the Congress nor the American people of their actions. When exposure was threatened, they destroyed official documents and lied to Cabinet officials, to the public, and to elected representatives in Congress. They testified that they even withheld key facts from the President.

The United States Constitution specifies the process by which laws and policy are to be made and executed. Constitutional process is the essence of our democracy and our democratic form of Government is the basis of our strength. Time and again we have learned that a flawed process leads to bad results, and that a lawless process leads to worse.

Policy Contradictions and Failures

The Administration's departure from democratic processes created the conditions for policy failure, and led to contradictions which undermined the credibility of the United States.

The United States simultaneously pursued two contradictory foreign policies—a public one and a secret one:

—The public policy was not to make any concessions for the release of hostages lest such concessions encourage more hostage-taking. At the same time, the United States was secretly trading weapons to get the hostages back.

—The public policy was to ban arms shipments to Iran and to exhort other Governments to observe this embargo. At the same time, the United States was secretly selling sophisticated missiles to Iran and promising more.

—The public policy was to improve relations with Iraq. At the same time, the United States secretly shared military intelligence on Iraq with Iran and North told the Iranians in contradiction to United States policy that the United States would help promote the overthrow of the Iraqi head of government.

—The public policy was to urge all Governments to punish terrorism and to support, indeed encourage, the refusal of Kuwait to free the Da'wa prisoners who were convicted of terrorist acts. At the same time, senior officials secretly endorsed a Secord-Hakim plan to permit Iran to obtain the release of the Da'wa prisoners.

—The public policy was to observe the "letter and spirit" of the Boland Amendment's proscriptions against military or paramilitary assistance to the Contras. At the same time, the NSC staff was secretly assuming direction and funding of the Contras' military effort.

—The public policy, embodied in agreements signed by Director Casey, was for the Administration to consult with the Congressional oversight committees about covert activities in a "new spirit of frankness and cooperation." At the same time, the CIA and the White House were secretly withholding from those Committees all information concerning the Iran initiative and the Contra support network.

—The public policy, embodied in Executive Order 12333, was to conduct covert operations solely through the CIA or other organs of the intelligence community specifically authorized by the President. At the same time, although the the NSC was not so authorized, the NSC staff secretly became operational and used private, non-accountable agents to engage in covert activities.

These contradictions in policy inevitably resulted in policy failure:

—The United States armed Iran, including its most radical elements, but attained neither a new relationship with that hostile regime nor a reduction in the number of American hostages.

—The arms sales did not lead to a moderation of Iranian policies. Moderates did not come forward, and Iran to this day sponsors actions directed against the United States in the Persian Gulf and elsewhere.

—The United States opened itself to blackmail by adversaries who might reveal the secret arms sales and who, according to North, threatened to kill the hostages if the sales stopped.

—The United States undermined its credibility with friends and allies, including moderate Arab states, by its public stance of opposing arms sales to Iran while undertaking such arms sales in secret.

—The United States lost a $10 million contribution to the Contras from the Sultan of Brunei by directing it to the wrong bank account—the result of an improper effort to channel that humanitarian aid contribution into an account used for lethal assistance.

—The United States sought illicit funding for the Contras through profits from the secret arms sales, but a substantial portion of those profits ended up in the personal bank accounts of the private individuals executing the sales—while the exorbitant amounts charged for the weapons inflamed the Iranians with whom the United States was seeking a new relationship.

Flawed Policy Process

The record of the Iran-Contra Affair also shows a seriously flawed policymaking process.

Confusion

There was confusion and disarray at the highest levels of Government.

—McFarlane embarked on a dangerous trip to Tehran under a complete misapprehension. He thought the Iranians had promised to secure the release of all hostages before he delivered arms, when in fact they had promised only to seek the hostages' release, and then only after one planeload of arms had arrived.

—The President first told the Tower Board that he had approved the initial Israeli shipments. Then, he told the Tower Board that he had not. Finally, he told the Tower Board that he does not know whether he approved the initial Israeli arms shipments, and his top advisers disagree on the question.

—The President claims he does not recall signing a Finding approving the November 1985 HAWK shipment to Iran. But Poindexter testified that the President did sign a Finding on December 5, 1985, approving the shipment retroactively. Poindexter later destroyed the Finding to save the President from embarassment.

—That Finding was prepared without adequate discussion and stuck in Poindexter's safe for a year; Poindexter claimed he forgot about it; the White House asserts the President never signed it; and when events began to unravel, Poindexter ripped it up.

—The President and the Attorney General told the public that the President did not know about the November 1985 Israeli HAWK shipment until February 1986—an error the White House Chief of Staff explained by saying that the preparation for the press conference "sort of confused the Presidential mind."

—Poindexter says the President would have approved the diversion, if he had been asked; and the President says he would not have.

—One National Security Adviser understood that the Boland Amendment applied to the NSC; another thought it did not. Neither sought a legal opinion on the question.

—The President incorrectly assured the American people that the NSC staff was adhering to the law and that the Government was not connected to the Hasenfus airplane. His staff was in fact conducting a "full service" covert operation to support the Contras which they believed he had authorized.

—North says he sent five or six completed memorandums to Poindexter seeking the President's approval for the diversion. Poindexter does not remember receiving any. Only one has been found.

Dishonesty and Secrecy

The Iran-Contra Affair was characterized by pervasive dishonesty and inordinate secrecy.

North admitted that he and other officials lied repeatedly to Congress and to the American people about the Contra covert action and Iran arms sales, and that he altered and destroyed official documents. North's testimony demonstrates that he also lied to members of the Executive branch, including the Attorney General, and officials of the State Department, CIA and NSC.

Secrecy became an obsession. Congress was never informed of the Iran or the Contra covert actions, notwithstanding the requirement in the law that Congress be notified of all covert actions in a "timely fashion."

Poindexter said that Donald Regan, the President's Chief of Staff, was not told of the NSC staff's fundraising activities because he might reveal it to the press. Secretary Shultz objected to third-country solicitation in 1984 shortly before the Boland Amendment was adopted; accordingly, he was not told that, in the same time period, the National Security Adviser had accepted an $8 million contribution from Country 2 even though the State Department had prime responsibility for dealings with that country. Nor was the Secretary of State told by the President in February 1985 that the same country had pledged another $24 million—even though the President briefed the Secretary of State on his meeting with the head of state at

which the pledge was made. Poindexter asked North to keep secrets from Casey; Casey, North, and Poindexter agreed to keep secrets from Shultz.

Poindexter and North cited fear of leaks as a justification for these practices. But the need to prevent public disclosure cannot justify the deception practiced upon Members of Congress and Executive branch officials by those who knew of the arms sales to Iran and of the Contra support network. The State and Defense Departments deal each day with the most sensitive matters affecting millions of lives here and abroad. The Congressional Intelligence Committees receive the most highly classified information, including information on covert activities. Yet, according to North and Poindexter, even the senior officials of these bodies could not be entrusted with the NSC staff's secrets because they might leak.

While Congress's record in maintaining the confidentiality of classified information is not unblemished, it is not nearly as poor or perforated as some members of the NSC staff maintained. If the Executive branch has any basis to suspect that any member of the Intelligence Committees breached security, it has the obligation to bring that breach to the attention of the House and Senate Leaders—not to make blanket accusations. Congress has the capability and responsibility of protecting secrets entrusted to it. Congress cannot fulfill its legislative responsibilities if it is denied information because members of the Executive branch, who place their faith in a band of international arms merchants and financiers, unilaterally declare Congress unworthy of trust.

In the case of the "secret" Iran arms-for-hostages deal, although the NSC staff did not inform the Secretary of State, the Chairman of the Joint Chiefs of Staff, or the leadership of the United States Congress, it was content to let the following persons know:

—Manucher Ghorbanifar, who flunked every polygraph test administered by the U.S. Government;

—Iranian officials, who daily denounced the United States but received an inscribed Bible from the President;

—Officials of Iran's Revolutionary Guard, who received the U.S. weapons;

—Secord and Hakim, whose personal interests could conflict with the interests of the United States;

—Israeli officials, international arms merchants, pilots and air crews, whose interests did not always coincide with ours; and

—An unknown number of shadowy intermediaries and financiers who assisted with both the First and Second Iranian Channels.

While sharing the secret with this disparate group, North ordered the intelligence agencies not to disseminate intelligence on the Iran initiative to the Secretaries of State and Defense. Poindexter told the Secretary of State in May 1986 that the Iran initiative was over, at the very time the McFarlane mission to Tehran was being launched. Poindexter also concealed from Cabinet officials the remarkable nine-point agreement negotiated by Hakim with the Second Channel. North assured the FBI liaison to the NSC as late as November 1986 that the United States was not bargaining for the release of hostages but seizing terrorists to exchange for hostages—a complete fabrication. The lies, omissions, shredding, attempts to rewrite history—all continued, even after the President authorized the Attorney General to find out the facts.

It was not operational security that motivated such conduct—not when our own Government was the victim. Rather, the NSC staff feared, correctly, that any disclosure to Congress or the Cabinet of the arms-for-hostages and arms-for-profit activities would produce a storm of outrage.

As with Iran, Congress was misled about the NSC staff's support for the Contras during the period of the Boland Amendment, although the role of the NSC staff was no secret to others. North testified that his operation was well-known to the press in the Soviet Union, Cuba, and Nicaragua. It was not a secret from Nicaragua's neighbors,

with whom the NSC staff communicated throughout the period. It was not a secret from the third countries—including a totalitarian state—from whom the NSC staff sought arms or funds. It was not a secret from the private resupply network which North recruited and supervised. According to North, even Ghorbanifar knew.

The Administration never sought to hide its desire to assist the Contras so long as such aid was authorized by statute. On the contrary, it wanted the Sandinistas to know that the United States supported the Contras. After enactment of the Boland Amendment, the Administration repeatedly and publicly called upon Congress to resume U.S. assistance. Only the NSC staff's Contra support activities were kept under wraps. The Committees believe these actions were concealed in order to prevent Congress from learning that the Boland Amendment was being circumvented.

It was stated on several occasions that the confusion, secrecy and deception surrounding the aid program for the Nicaraguan freedom fighters was produced in part by Congress' shifting positions on Contra aid.

But Congress' inconsistency mirrored the chameleon-like nature of the rationale offered for granting assistance in the first instance. Initially, Congress was told that our purpose was simply to interdict the flow of weapons from Nicaragua into El Salvador. Then Congress was told that our purpose was to harrass the Sandinistas to prevent them from consolidating their power and exporting their revolution. Eventually, Congress was told that our purpose was to eliminate all foreign forces from Nicaragua, to reduce the size of the Sandinista armed forces, and to restore the democratic reforms pledged by the Sandinistas during the overthrow of the Somoza regime.

Congress had cast a skeptical eye upon each rationale proffered by the Administration. It suspected that the Administration's true purpose was identical to that of the Contras—the overthrow of the Sandinista regime itself. Ultimately Congress yielded to domestic political pressure to discontinue assistance to the Contras, but Congress was unwilling to bear responsibility for the loss of Central America to communist military and political forces. So Congress compromised, providing in 1985 humanitarian aid to the Contras; and the NSC staff provided what Congress prohibited: lethal support for the Contras.

Compromise is no excuse for violation of law and deceiving Congress. A law is no less a law because it is passed by a slender majority, or because Congress is open-minded about its reconsideration in the future.

Privatization

The NSC staff turned to private parties and third countries to do the Government's business. Funds denied by Congress were obtained by the Administration from third countries and private citizens. Activities normally conducted by the professional intelligence services—which are accountable to Congress—were turned over to Secord and Hakim.

The solicitation of foreign funds by an Administration to pursue foreign policy goals rejected by Congress is dangerous and improper. Such solicitations, when done secretly and without Congressional authorization, create a risk that the foreign country will expect and demand something in return. McFarlane testified that "any responsible official has an obligation to acknowledge that every country in the world will see benefit to itself by ingratiating itself to the United States." North, in fact, proposed rewarding a Central American country with foreign assistance funds for facilitating arms shipments to the Contras. And Secord, who had once been in charge of the U.S. Air Force's foreign military sales, said "where there is a quid, there is a quo."

Moreover, under the Constitution only Congress can provide funds for the Executive branch. The Framers intended Congress's "power of the purse" to be one of the principal checks on Executive action. It was designed, among other things, to prevent the

Executive from involving this country unilaterally in a foreign conflict. The Constitutional plan does not prohibit a President from asking a foreign state, or anyone else, to contribute funds to a third party. But it does prohibit such solicitation where the United States exercises control over their receipt and expenditure. By circumventing Congress' power of the purse through third-country and private contributions to the Contras, the Administration undermined a cardinal principle of the Constitution.

Further, by turning to private citizens, the NSC staff jeopardized its own objectives. Sensitive negotiations were conducted by parties with little experience in diplomacy, and financial interests of their own. The diplomatic aspect of the mission failed—the United States today has no long-term relationship with Iran and no fewer hostages in captivity. But the private financial aspect succeeded—Secord and Hakim took $4.4 million in commissions and used $2.2 million more for their personal benefit; in addition, they set aside reserves of over $4 million in Swiss bank accounts of the Enterprise.

Covert operations of this Government should only be directed and conducted by the trained professional services that are accountable to the President and Congress. Such operations should never be delegated, as they were here, to private citizens in order to evade Governmental restrictions.

Lack of Accountability

The confusion, deception, and privatization which marked the Iran-Contra Affair were the inevitable products of an attempt to avoid accountability. Congress, the Cabinet, and the Joint Chiefs of Staff were denied information and excluded from the decision-making process. Democratic procedures were disregarded.

Officials who make public policy must be accountable to the public. But the public cannot hold officials accountable for policies of which the public is unaware. Policies that are known can be subjected to the test of reason, and mistakes can be corrected after consultation with the Congress and deliberation within the Executive branch itself. Policies that are secret become the private preserve of the few, mistakes are inevitably perpetuated, and the public loses control over Government. That is what happened in the Iran-Contra Affair:

—The President's NSC staff carried out a covert action in furtherance of his policy to sustain the Contras, but the President said he did not know about it.

—The President's NSC staff secretly diverted millions of dollars in profits from the Iran arms sales to the Contras, but the President said he did not know about it and Poindexter claimed he did not tell him.

—The Chairman of the Joint Chiefs of Staff was not informed of the Iran arms sales, nor was he ever consulted regarding the impact of such sales on the Iran-Iraq war or on U.S. military readiness.

—The Secretary of State was not informed of the millions of dollars in Contra contributions solicited by the NSC staff from foreign governments with which the State Department deals each day.

—Congress was told almost nothing—and what it was told was false.

Deniability replaced accountability. Thus, Poindexter justified his decision not to inform the President of the diversion on the ground that he wanted to give the President "deniability." Poindexter said he wanted to shield the President from political embarrassment if the diversion became public.

This kind of thinking is inconsistent with democratic governance. "Plausible denial," an accepted concept in intelligence activities, means structuring an authorized covert operation so that, if discovered by the party against whom it is directed, United States involvement may plausibly be denied. That is a legitimate feature of authorized covert operations. In no circumstance, however, does "plausible denial" mean structuring an operation so that it may be concealed from—or denied to—the highest elected officials of the United States Government itself.

The very premise of democracy is that "we the people" are entitled to make our own choices on fundamental policies. But freedom of choice is illusory if policies are kept, not only from the public, but from its elected representatives.

Intelligence Abuses

Covert Operations

As former National Security Adviser Robert McFarlane testified, "it is clearly unwise to rely on covert action as the core of our policy." The Government cannot keep a policy secret and still secure the public support necessary to sustain it. Yet it was precisely because the public would not support the Contra policy, and was unlikely to favor arms deals with Iran, that the NSC staff went underground. This was a perversion of the proper concept of covert operations:

—Covert operations should be conducted in accordance with strict rules of accountability and oversight. In the mid-1970s, in response to disclosures of abuses within the intelligence community, the Government enacted a series of safeguards. Each covert action was to be approved personally by the President, funded by Congressional appropriations, and Congress was to be informed.

In the Iran-Contra Affair, these rules were violated. The President, according to Poindexter, was never informed of the diversion. The President says he knew nothing of the covert action to support the Contras, or the companies funded by non-appropriated monies set up by North to carry out that support. Congress was not notified of either the Iran or the Contra operations.

—Covert actions should be consistent with publicly defined U.S. foreign policy goals. Because covert operations are secret by definition, they are of course not openly debated or publicly approved. So long as the policies which they further are known, and so long as they are conducted in accordance with law, covert operations are acceptable. Here, however, the Contra covert operation was carried out in violation of the country's public policy as expressed in the Boland Amendment; and the Iran covert operation was carried out in violation of the country's stated policy against selling arms to Iran or making concessions to terrorists. These were not covert actions, they were covert policies; and covert policies are incompatible with democracy.

—Finally, covert operations are intended to be kept from foreign powers, not from the Congress and responsible Executive agencies within the United States Government itself. As Clair George, CIA Director of Operations, testified: "to think that because we deal in lies, and overseas we may lie and we may do other such things, that therefore that gives you some permission, some right or some particular reason to operate that way with your fellow employees, I would not only disagree with that I would say it would be the destruction of a secret service in a democracy." In the Iran-Contra Affair, secrecy was used to justify lies to Congress, the Attorney General, other Cabinet officers, and the CIA. It was used not as a shield against our adversaries, but as a weapon against our own democratic institutions.

The NSC Staff

The NSC staff was created to give the President policy advice on major national security and foreign policy issues. Here, however, it was used to gather intelligence and conduct covert operations. This departure from its proper functions contributed to policy failure.

During the Iran initiative, the NSC staff became the principal body both for gathering and coordinating intelligence on Iran and for recommending policy to the President. The staff relied on Iranians who were interested only in buying arms, including Ghorbanifar, whom CIA officials regarded as a fabricator. Poindexter, in recommending to the President the sale of weapons to Iran, gave as one of his reasons that Iraq was winning the Gulf war. That assessment was contrary to the views of intelligence professionals at the State Department, the Depart-

ment of Defense, and the CIA, who had concluded as early as 1983 that Iran was winning the war. Casey, who collaborated with North and Poindexter on the Iran and Contra programs, also tailored intelligence reports to the positions he advocated. The record shows that the President believed and acted on these erroneous reports.

Secretary Shultz pointed out that the intelligence and policy functions do not mix, because "it is too tempting to have your analysis on the selection of information that is presented favor the policy that you are advocating." The Committees agree on the need to separate the intelligence and policy functions. Otherwise, there is too great a risk that the interpretation of intelligence will be skewed to fit predetermined policy choices.

In the Iran-Contra Affair, the NSC staff not only combined intelligence and policy functions, but it became operational and conducted covert operations. As the CIA was subjected to greater Congressional scrutiny and regulation, a few Administration officials—including even Director Casey—came to believe that the CIA could no longer be utilized for daring covert operations. So the NSC staff was enlisted to provide assistance in covert operations that the CIA could not or would not furnish.

This was a dangerous misuse of the NSC staff. When covert operations are conducted by those on whom the President relies to present policy options, there is no agency in government to objectively scrutinize, challenge and evaluate plans and activities. Checks and balances are lost. The high policy decisions confronting a President can rarely be resolved by the methods and techniques used by experts in the conduct of covert operations. Problems of public policy must be dealt with through consultation, not Poindexter's "compartmentation"; with honesty and confidentiality, not deceit.

The NSC was created to provide candid and comprehensive advice to the President. It is the judgment of these Committees that the NSC staff should never again engage in covert operations.

Disdain for Law

In the Iran-Contra Affair, officials viewed the law not as setting boundaries for their actions, but raising impediments to their goals. When the goals and the law collided, the law gave way:

—The covert program of support for the Contras evaded the Constitution's most significant check on Executive power: the President can spend funds on a program only if he can convince Congress to appropriate the money.

When Congress enacted the Boland Amendment, cutting off funds for the war in Nicaragua, Administration officials raised funds for the Contras from other sources—foreign Governments, the Iran arms sales, and private individuals; and the NSC staff controlled the expenditures of these funds through power over the Enterprise. Conducting the covert program in Nicaragua with funding from the sale of U.S. Government property and contributions raised by Government officials was a flagrant violation of the Appropriations Clause of the Constitution.

—In addition, the covert program of support for the Contras was an evasion of the letter and spirit of the Boland Amendment. The President made it clear that while he opposed restrictions on military or paramilitary assistance to the Contras, he recognized that compliance with the law was not optional. "[W]hat I might personally wish or what our Government might wish still would not justify us violating the law of the land," he said in 1983.

A year later, members of the NSC staff were devising ways to continue support and direction of Contra activities during the period of the Boland Amendment. What was previously done by the CIA—and now prohibited by the Boland Amendment—would be done instead by the NSC staff.

The President set the stage by welcoming a huge donation for the Contras from a foreign Government—a contribution clearly intended to keep the Contras in the field while U.S. aid was barred. The NSC staff thereaf-

ter solicited other foreign Governments for military aid, facilitated the efforts of U.S. fundraisers to provide lethal assistance to the Contras, and ultimately developed and directed a private network that conducted, in North's words, a "full service covert operation" in support of the Contras.

This could not have been more contrary to the intent of the Boland legislation.

Numerous other laws were disregarded:

—North's full-service covert operation was a "significant anticipated intelligence activity" required to be disclosed to the Intelligence Committees of Congress under Section 501 of the National Security Act. No such disclosure was made.

—By Executive order, a covert operation requires a personal determination by the President before it can be conducted by an agency other than the CIA. It requires a written Finding before any agency can carry it out. In the case of North's full-service covert operation in support of the Contras, there was no such personal determination and no such Finding. In fact, the President disclaims any knowledge of this covert action.

—False statements to Congress are felonies if made with knowledge and intent. Several Administration officials gave statements denying NSC staff activities in support of the Contras which North later described in his testimony as "false," and "misleading, evasive, and wrong."

—The application of proceeds from U.S. arms sales for the benefit of the Contra war effort violated the Boland Amendment's ban on U.S. military aid to the Contras, and constituted a misappropriation of Government funds derived from the transfer of U.S. property.

—The U.S. Government's approval of the pre-Finding 1985 sales by Israel of arms to the Government of Iran was inconsistent with the Government's obligations under the Arms Export Control Act.

—The testimony to Congress in November 1986 that the U.S. Government had no contemporaneous knowledge of the Israeli shipments, and the shredding of documents relating to the shipments while a Congressional inquiry into those shipments was pending, obstructed Congressional investigations.

—The Administration did not make, and clearly intended never to make, disclosure to the Intelligence Committees of the Finding—later destroyed—approving the November 1985 HAWK shipment, nor did it disclose the covert action to which the Finding related.

The Committees make no determination as to whether any particular individual involved in the Iran-Contra Affair acted with criminal intent or was guilty of any crime. That is a matter for the Independent Counsel and the courts. But the Committees reject any notion that worthy ends justify violations of law by Government officials; and the Committees condemn without reservation the making of false statements to Congress and the withholding, shredding, and alteration of documents relevant to a pending inquiry.

Administration officials have, if anything, an even greater responsibility than private citizens to comply with the law. There is no place in Government for law breakers.

Congress and the President

The Constitution of the United States gives important powers to both the President and the Congress in the making of foreign policy. The President is the principal architect of foreign policy in consultation with the Congress. The policies of the United States cannot succeed unless the President and the Congress work together.

Yet, in the Iran-Contra Affair, Administration officials holding no elected office repeatedly evidenced disrespect for Congress' efforts to perform its Constitutional oversight role in foreign policy:

—Poindexter testified, referring to his efforts to keep the covert action in support of the Contras from Congress: "I simply did not want any outside interference."

—North testified: "I didn't want to tell Congress anything" about this covert action.

—Abrams acknowledged in his testimony that, unless Members of Congressional Committees asked "exactly the right question, using exactly the right words, they weren't going to get the right answers," regarding solicitation of third-countries for Contra support.

—And numerous other officials made false statements to, and misled, the Congress.

Several witnesses at the hearings stated or implied that foreign policy should be left solely to the President to do as he chooses, arguing that shared powers have no place in a dangerous world. But the theory of our Constitution is the opposite: policies formed through consultation and the democratic process are better and wiser than those formed without it. Circumvention of Congress is self-defeating, for no foreign policy can succeed without the bipartisan support of Congress.

In a system of shared powers, decision-making requires mutual respect between the branches of government.

The Committees were reminded by Secretary Shultz during the hearings that "trust is the coin of the realm." Democratic government is not possible without trust between the branches of government and between the government and the people. Sometimes that trust is misplaced and the system falters. But for officials to work outside the system because it does not produce the results they seek is a prescription for failure.

Who Was Responsible

Who was responsible for the Iran-Contra Affair? Part of our mandate was to answer that question, not in a legal sense (which is the responsibility of the Independent Counsel), but in order to reaffirm that those who serve the Government are accountable for their actions. Based on our investigation, we reach the following conclusions.

At the operational level, the central figure in the Iran-Contra Affair was Lt. Col. North, who coordinated all of the activities and was involved in all aspects of the secret operations. North, however, did not act alone.

North's conduct had the express approval of Admiral John Poindexter, first as Deputy National Security Adviser, and then as National Security Adviser. North also had at least the tacit support of Robert McFarlane, who served as National Security Adviser until December 1985.

In addition, for reasons cited earlier, we believe that the late Director of Central Intelligence, William Casey, encouraged North, gave him direction, and promoted the concept of an extra-legal covert organization. Casey, for the most part, insulated CIA career employees from knowledge of what he and the NSC staff were doing. Casey's passion for covert operations—dating back to his World War II intelligence days—was well known. His close relationship with North was attested to by several witnesses. Further, it was Casey who brought Richard Secord into the secret operation, and it was Secord who, with Albert Hakim, organized the Enterprise. These facts provide strong reasons to believe that Casey was involved both with the diversion and with the plans for an "off-the-shelf" covert capacity.

The Committees are mindful, however, of the fact that the evidence concerning Casey's role comes almost solely from North; that this evidence, albeit under oath, was used by North to exculpate himself; and that Casey could not respond. Although North told the Committees that Casey knew of the diversion from the start, he told a different story to the Attorney General in November 1986, as did Casey himself. Only one other witness, Lt. Col. Robert Earl, testified that he had been told by North during Casey's lifetime that Casey knew of the diversion.

The Attorney General recognized on November 21, 1986 the need for an inquiry. His staff was responsible for finding the diversion memorandum, which the Attorney General promptly made public. But as described earlier, his fact-finding inquiry departed from standard investigative techniques. The Attorney General saw Director Casey hours after

the Attorney General learned of the diversion memorandum, yet he testified that he never asked Casey about the diversion. He waited two days to speak to Poindexter, North's superior, and then did not ask him what the President knew. He waited too long to seal North's offices. These lapses placed a cloud over the Attorney General's investigation.

There is no evidence that the Vice President was aware of the diversion. The Vice President attended several meetings on the Iran initiative, but none of the participants could recall his views.

The Vice President said he did not know of the Contra resupply operation. His National Security Adviser, Donald Gregg, was told in early August 1986 by a former colleague that North was running the Contra resupply operation, and that ex-associates of Edwin Wilson—a well known ex-CIA official convicted of selling arms to Libya and plotting the murder of his prosecutors—were involved in the operation. Gregg testified that he did not consider these facts worthy of the Vice President's attention and did not report them to him, even after the Hasenfus airplane was shot down and the Administration had denied any connection with it.

The central remaining question is the role of the President in the Iran-Contra Affair. On this critical point, the shredding of documents by Poindexter, North, and others, and the death of Casey, leave the record incomplete.

As it stands, the President has publicly stated that he did not know of the diversion. Poindexter testified that he shielded the President from knowledge of the diversion. North said that he never told the President, but assumed that the President knew. Poindexter told North on November 21, 1986 that he had not informed the President of the diversion. Secord testified that North told him he had talked with the President about the diversion, but North testified that he had fabricated this story to bolster Secord's morale.

Nevertheless, the ultimate responsibility for the events in the Iran-Contra Affair must rest with the President. If the President did not know what his National Security Advisers were doing, he should have. It is his responsibility to communicate unambiguously to his subordinates that they must keep him advised of important actions they take for the Administration. The Constitution requires the President to "take care that the laws be faithfully executed." This charge encompasses a responsibility to leave the members of his Administration in no doubt that the rule of law governs.

Members of the NSC staff appeared to believe that their actions were consistent with the President's desires. It was the President's policy—not an isolated decision by North or Poindexter—to sell arms secretly to Iran and to maintain the Contras "body and soul," the Boland Amendment notwithstanding. To the NSC staff, implementation of these policies became the overriding concern.

Several of the President's advisers pursued a covert action to support the Contras in disregard of the Boland Amendment and of several statutes and Executive orders requiring Congressional notification. Several of these same advisers lied, shredded documents, and covered up their actions. These facts have been on the public record for months. The actions of those individuals do not comport with the notion of a country guided by the rule of law. But the President has yet to condemn their conduct.

The President himself told the public that the U.S. Government had no connection to the Hasenfus airplane. He told the public that early reports of arms sales for hostages had "no foundation." He told the public that the United States had not traded arms for hostages. He told the public that the United States had not condoned the arms sales by Israel to Iran, when in fact he had approved them and signed a Finding, later destroyed by Poindexter, recording his approval. All of these statements by the President were wrong.

Thus, the question whether the President knew of the diversion is not conclusive on the issue of his responsibility. The President created or at least tolerated an environment where those who did know of the diversion believed with certainty that they were carrying out the President's policies.

This same environment enabled a secretary who shredded, smuggled, and altered documents to tell the Committees that "sometimes you have to go above the written law;" and it enabled Admiral Poindexter to testify that "frankly, we were willing to take some risks with the law." It was in such an environment that former officials of the NSC staff and their private agents could lecture the Committees that a "rightful cause" justifies any means, that lying to Congress and other officials in the executive branch itself is acceptable when the ends are just, and that Congress is to blame for passing laws that run counter to Administration policy. What may aptly be called the "cabal of the zealots" was in charge.

In a Constitutional democracy, it is not true, as one official maintained, that "when you take the King's shilling, you do the King's bidding." The idea of monarchy was rejected here 200 years ago and since then, the law—not any official or ideology—has been paramount. For not instilling this precept in his staff, for failing to take care that the law reigned supreme, the President bears the responsibility.

Fifty years ago Supreme Court Justice Louis Brandeis observed: "Our Government is the potent, the omnipresent teacher. For good or for ill, it teaches the whole people by its example. Crime is contagious. If the Government becomes a law-breaker, it breeds contempt for law, it invites every man to become a law unto himself, it invites anarchy."

The Iran-Contra Affair resulted from a failure to heed this message.

Part II
Central America

Chapter 15
The Diversion

The term "diversion" entered the vocabulary of American history on November 25, 1986, when the media, covering Attorney General Edwin Meese's press conference, reported a "diversion of funds" for the Contras from the Iran arms sales. The diversion immediately became the focus of the public's attention: Whose idea was it? Who approved it? When? Who knew of it? How much was diverted?

The Committees were able to answer these questions, but only partly, because of contradictions in the record, the destruction of evidence, and apparent forgetfulness by officials.

Lt. Col. Oliver North, Vice Admiral John Poindexter, and Richard Secord all vigorously rejected the term diversion, because it implies that the arms sales proceeds were earmarked for the U.S. Government, and were misappropriated. To North, Poindexter, and Secord, providing assistance to the Contras was only one of a number of intended uses of those proceeds. North named several projects that he was planning to finance from the proceeds.[1] Indeed, Poindexter saw the generation of money for the Contras from the arms sales as no more exceptional than raising money from foreign countries, which the NSC staff had been doing with the President's approval for 18 months. Thus, for North, Poindexter, and Secord, the "diversion" was no diversion. But that was one of the few things upon which they agreed.

Whose Idea?

The generation of profits for covert uses from the sale of arms was not a novel idea when North first seized upon it. Sophisticated weapons bring premium prices in the international grey market for arms, and can thereby create slush funds for improper covert activities that could not be financed through appropriated money.

General John Singlaub had presented such a proposal in a memorandum to North and Director of Central Intelligence William J. Casey during 1985. The memorandum, prepared by Singlaub's associate, Barbara Studley, defined the "problem":

> With each passing year, Congress has become increasingly unpredictable and uncooperative regarding the President's desire to support the cause of the Freedom Fighters despite growing Soviet oppression. The funds have not been forthcoming to supply sufficient arms necessary for the Freedom Fighters to win.[2]

The "objective" was "to create a conduit for maintaining a continuous flow of Soviet weapons and technology, to be used by the United States in support of Freedom Fighters in Nicaragua, Angola, Cambodia, Ethiopia, etc."[3]

The memorandum proposed a three-way trade in which the United States would provide high technology equipment to another country, that country would deliver from its stockpiles military equipment of equal value to a third country, and the third country would export Soviet-compatible arms to a trading company at the direction of the United States. "The United States," the memorandum observed, would then be able to dispense the arms to "Freedom Fighters worldwide, mandating neither the consent or awareness of the Department of State or Congress." The memorandum diagrammed the plan (see Figure 15-1).[4]

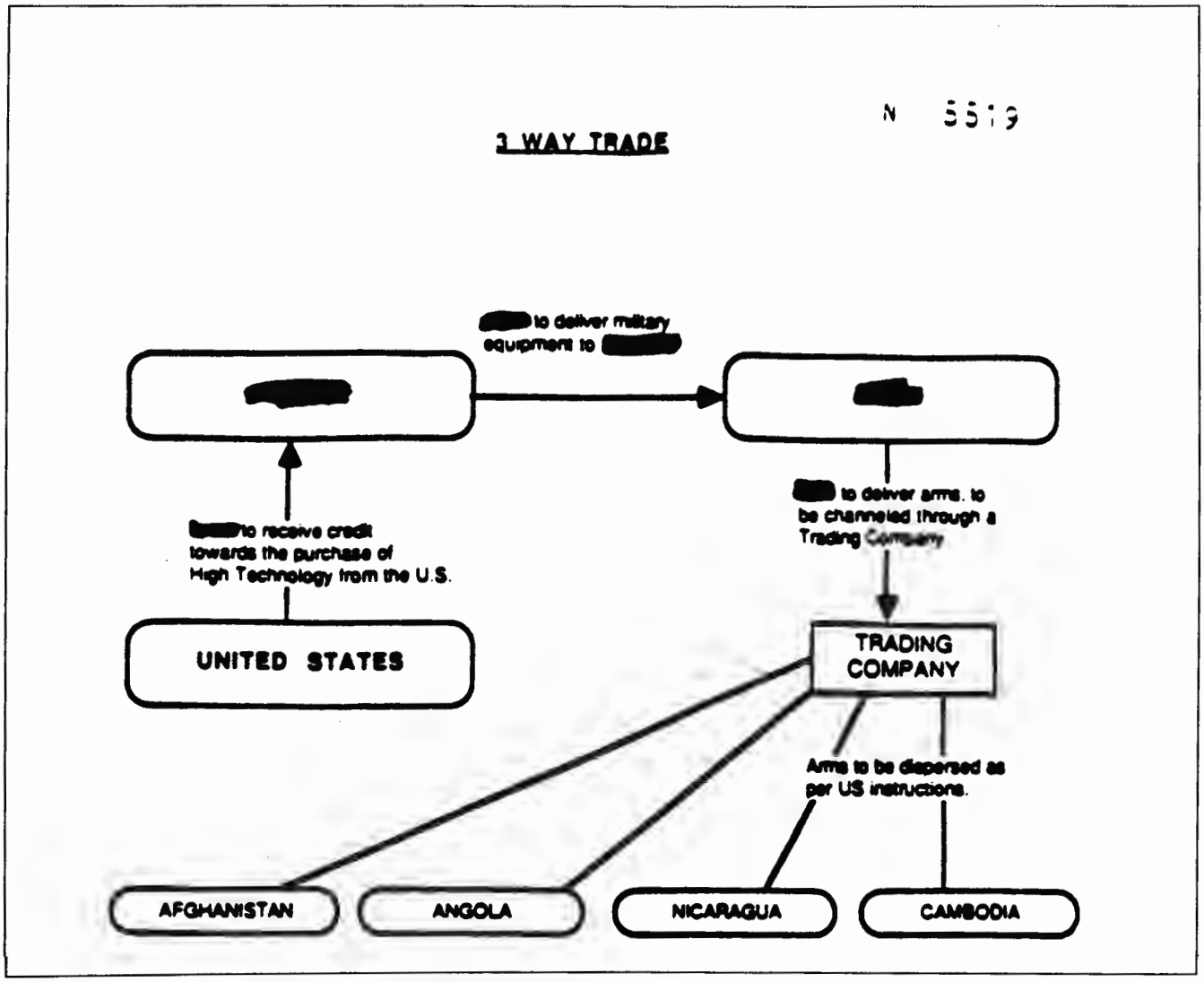
North acknowledged receiving this memorandum, but dismissed its significance.[5] * The Singlaub-Studley plan was not implemented, but the idea of using sophisticated U. S. weapons to finance arms for anti-Communist insurgents was known to those working to support the Contras before any proceeds from U.S. sales of arms to Iran were first received.

While Studley was developing her proposal, the Israelis were acting on a different plan. According to the Israelis, North proposed in early October 1985 using the excess funds from the TOW missile sales to support pragmatists in Iran.[6] North testified, however, only that he had reason to suspect that the Israelis were using excess funds for covert purposes.[7]

By the end of November 1985, the Enterprise received a portion of the arms sales proceeds. At North's request, the Israeli intermediaries paid the Lake Resources account $1 million from the proceeds of its August-September TOW shipments. According

*When Secretary Shultz was shown the Singlaub-Studley plan at the hearings, he responded that, "[t]his is not in line with what was agreed to in Philadelphia. This is a piece of junk and ought to be treated that way." Shultz Test., *Hearings*, 100-9, 7/23/87, at 192.

Figure 15-1. Exhibit JKS-6: 3 Way Trade



to North and Secord, the money was to cover the Enterprise's expenses in arranging five shipments of HAWKs to Iran. But when the deliveries were halted after one shipment, the Enterprise held $800,000 in unexpended funds. North received the Israelis' permission to use the $800,000 for "whatever purpose we wanted," and he directed Secord to spend the money for the Contras.[8]

Thus, by early December, the notion that the Iran sales could be used as a vehicle for financing the Contras was firmly planted in North's mind. On December 6, 1985, North remarked to Israeli Ministry of Defense officials that he needed money and that he intended to divert profits from future Iranian transactions to Nicaragua.[9] * On December 9, North recommended to Poindexter that the United States take control of the arms sales from Israel, and use "Secord as our conduit to control [Iranian intermediary] Ghorbanifar and the delivery operation." [10] This mechanism was adopted in the President's January 17, 1986, Finding, thereby avoiding the Arms Export Control Act requirement of Congressional notification for Israel to continue sales to Iran of the U.S. weapons. The mechanism allowed the CIA to sell arms to Iran directly *or through a "third party,"* although it did not authorize or even mention the generation of profits. Nevertheless, by permitting the CIA to sell through a third party, the Finding created an opportunity for profits to be generated and placed in the hands of the third party—an opportunity that would not have existed if the CIA sold the arms directly. So far as the record shows, this possibility was never suggested to the CIA attorneys who drafted the Finding, nor did Poindexter discuss it with the President in connection with the President's execution of the January 17 Finding.

*One of the Israeli officials took contemporaneous notes of the meeting, recording North's comment. The two other Israeli officials at the meeting (which dealt mainly with other matters) did not recall the comment by North. Israeli Historical Chronology.

In January 1986, the idea that excess money could be generated by arms sales to Iran surfaced in another way. The Israelis had been promised replenishment of the TOWs they shipped in August-September 1985, but the United States had delayed action on Israel's request. When National Security Adviser Robert McFarlane resigned, North found no agreement on the price Israel was to pay for the replacements. Some Israelis thought that McFarlane had agreed to replenish the TOWs for nothing. NSC consultant Michael Ledeen had quoted a low price,[11] even though certain U.S. Government officials wanted the full price for the more expensive, improved TOWs that Israel wanted. The price for those improved TOWs exceeded the proceeds remaining from Israel's sale of older model TOWs to Iran. According to North, Amiram Nir, the adviser to Israeli Prime Minister Shimon Peres, proposed in January 1986 that Israel use some of the profits from selling additional TOWs to pay for replenishment of the original 504 TOWs.[12]*

When the United States decided in January to sell the additional TOWs through the Enterprise (not through Israel), North and Poindexter agreed that part of the profits would be set aside to pay for the replacement of Israel's previously shipped TOWs.[13] Thus, the plan to divide up the proceeds of the U.S. arms sales to Iran was in place when the January 17 Finding was signed.

North testified, however, that the proposal to support the Contras from arms sales proceeds was first suggested by Ghorbanifar in late January 1986. He did not recall discussing the idea in December 1985 with Israeli Ministry of Defense officials, although he said the "subject may well have come up before [late January], but I don't recall it."[14] According to North, during a meeting abroad with Nir and Ghorbanifar relating to the February 1986 TOW shipment to Iran, "Ghorbanifar took me into the bathroom and . . . suggested several incentives to make that February transaction work, and the attractive incentive for me was . . . that residuals could flow to support the Nicaraguan resistance."[15]

The tape of the meeting shows that the idea of assisting the Contras was, in fact, discussed, not alone with North in the bathroom, but with the whole group present. This fact does not negate earlier consideration by North. Indeed, Ghorbanifar does not seem to have been referring to using the sales proceeds, but rather to Iran's assisting U.S. interests in Central America in return for receiving U.S. military assistance:

GHORBANIFAR:

(Laughingly)

And we do everything. We do with the hostages for free of charge; we do all terrorists free of charge; Central America for you free of charge; American business free of charge; [First Iranian Official] visit; . . . Everything we do.

NORTH:

I would like to see that, that at some point this idea . . . and maybe, y'know, if there is some future opportunity for Central America. You know that there is a lot of Libyan, a lot of Libyan and Iranian activity with the Nicaraguans.

Regardless of its origin, North believed that using the funds from the arms sales for the Contras was a "neat idea," and he advocated it to Poindexter.[16] He testified that he sought Poindexter's approval upon returning from the meeting with Ghorbanifar and Nir, and that Poindexter pondered the decision for at least several weeks.[17] Poindexter testified, however, that he approved the diversion idea after thinking about it for only a few minutes.[18]

Who Else Knew—a Study in Contradictions

Presidential Knowledge

Although both Poindexter and North testified that they never told the President about the diversion, the substance of their testimony diverges from there.

Poindexter testified that he made "a very deliberate decision not to ask the President" about the diversion in order to "insulate [the President] from the decision and provide some future deniability for the President if it ever leaked out." Although Poindexter asserted that the President would have approved of the diversion as an "implementation" of his policies, he nevertheless chose to protect the President from knowledge of the diversion because it was a "politically volatile issue."[19] Poindexter testified as to the success of his efforts to provide the President with "future deniability" of the diversion. When Poindexter was questioned about the White House statement (issued the day after his initial hearing testimony) that the President would not have authorized the diversion, Poindexter responded: "I understand that he [the President] said that, and I would have expected him to say that. That is the whole idea of deniability."[20]

Poindexter testified that he considered the diversion so controversial that he understood he would have to resign if it ever were exposed.[21] Nevertheless, he also testified that, in approving the diversion, he did not consult Casey, a political expert who had managed the 1980 Reagan campaign, and that, only 2 months after taking office as National Security Adviser, he made this decision on his own. Poindexter had been

*According to the Israeli Financial Chronology, it was North, not Nir, who made this proposal.

commended in the Navy for keeping his superiors informed.[22] He testified that he had never before withheld information from any of his commanders in order to give them deniability.[23] Moreover, McFarlane, for whom Poindexter had worked for 2 years, assumed that Poindexter would have informed the President.[24] Preempting a decision by the President to provide political deniability—which Poindexter testified that he did—was totally uncharacteristic for a naval officer schooled in the chain of command.

Poindexter testified at his deposition that "I told Colonel North *repeatedly* not to put anything in writing on the transfer of funds to the Contras and not to talk to anybody about it." [25] * Poindexter could not recall any memorandum that referred to the diversion, stating that he was surprised on November 24, 1986, to learn that a written document showing the diversion had been found.[26] He claimed that he never saw the early April diversion memorandum before then, although North's secretary Fawn Hall recalled that Poindexter had returned a draft of that memorandum with changes.[27] ** Even when confronted with a PROF message, dated April 7, 1986, from North to McFarlane, which referred to the memorandum and stated that Poindexter had asked North to "lay out arrangements for our boss," Poindexter maintained that he never asked North to prepare the document.[28] *** Consistent with this testimony, Poindexter did not recall North ever telling him in November 1986 or any other time that all memorandums referring to the use of the arms sales proceeds to support the Contras had been destroyed.[29]

In essence, Poindexter's story on Presidential knowledge of the diversion was that he had constructed a situation whereby only he and the President would know whether the President had been advised of the diversion.[30] In this regard, Poindexter testified that he never told North that the President was not privy to the diversion decision.[31]

In contrast, North testified that he always "assumed that the President was aware of [the diversion] and had, through my superiors, approved it." [32] North estimated that he prepared as many as five or six memorandums in final form referring to the use of the arms sales proceeds for the Contras. These memorandums went "up the line" to Poindexter and covered each actual or proposed arms transaction for which payment would be received.[33] The use of proceeds was described in only one paragraph in each memorandum. North's memorandums concluded with the recommendation that Poindexter brief the President to secure approval for the transfer and provided lines on which someone could indicate whether the transfer had been "approved" or "disapproved." [34] North further testified that he did not recall any instruction from Poindexter or anybody else not to write and send such memorandums, adding that "had I been given [such an instruction], I would have followed it." [35] Instead, North created records such as the surviving copies of the April diversion memorandum that called for Presidential briefings and approval.*

North was unequivocal that the April 7 PROF message referred to the diversion memorandum prepared by him in early April 1986 and uncovered by the Justice Department in November.[36] North also testified that Poindexter had communicated approval either orally or in writing on at least three of the diversion memorandums, and that he believed that he "had received authority from the President." [37] Finally in this regard, he testified that early on November 21, 1986, he assured Poindexter that all documents referring to the use of proceeds for the Contras had been destroyed.[38]

North assumed without asking Poindexter explicitly that the President knew and approved of the diversion. North had worked under three National Security Advisers. Based on that experience, he concluded that a decision of this magnitude would be taken only with Presidential approval[39]—a view that McFarlane shared.[40]

North told Secord that he had conversations with the President about the irony that the Ayatollah's money was being used to support the Contras. Secord testified that North did not convey these conversations "in a way that I took it as a joke." [41] North testified that he had no such conversation with the President, but told Secord otherwise in an effort to lift Secord's spirits.[42] There is no evidence that North did tell the President about the diversion; according to White House records, he never met alone with the President.

*In his public testimony—after North's public appearance—Poindexter attempted to retreat from this definitive statement in his deposition. He testified publicly that he did not recall telling North not to put anything in writing on the diversion. Poindexter Test., *Hearings*, 100-8, 7/15/87, at 44.

**In his post-North public testimony, Poindexter softened this testimony somewhat by stating that "[i]t appears that it is possible that I saw one [diversion] memo. . . ." Poindexter Test., *Hearings*, 100-8, 7/17/87, at 135; 7/20/87 at 282.

***He speculated, however, that North might have prepared such a memo in response to a request for an outline of the upcoming trip to Tehran in May. Poindexter Test., *Hearings*, 100-8, 7/15/87, at 44.

* In his first deposition before the Committees, James R. Radzimski, the NSC's System IV Control Officer in 1985 and through October 1986, recalled two such North memorandums to Poindexter discussing the diversion—one in late 1985, the other in mid-April 1986. Radzimski recalled also that the April memorandum attached a proposed memorandum from Poindexter to the President. Radzimski Dep., 4/29/87, at 54-57, 68-74. The Committees directed an exhaustive search of White House files and computer entries, in which the FBI participated, but no evidence was found to corroborate Radzimski's testimony. Further, Radzimski's own document log did not support his recollection. Radzimski Dep., 8/11/87, Ex. 3. Accordingly, the Committees recalled Radzimski for further deposition, where he testified that there was a "distinct possibility" his recollection "is not completely accurate." Radzimski Dep., 8/11/87, at 33.

North said that he continued until November 21, 1986, to assume that the President had approved the diversion. He testified that, on or about that day, he asked Poindexter directly, "does the President know?" He told me [the President] did not." [43] North testified that the President confirmed this lack of knowledge on November 25 when the President told him by telephone that, "I just didn't know." [44] Robert Earl, North's aide, testified that North had told him that the President had said "it is important that I not know." [45] Lt. Cmdr. Coy, the third officemate, who was also present, did not recall any conversation about the President's knowledge.[46] Fawn Hall testified that North told her that the President had "called him an American hero" and said that "he [the President] just didn't know." [47]

Except for the April memorandum, the memorandums that North claimed he sent Poindexter are gone. North testified that he destroyed them. Three drafts of the April memorandum were found in various locations in North's files. They are identical except for the precise date of the Israeli September 1985 TOW shipment on the first page.[48]

Memorandums for the February, May, and October 1986 shipments, describing the use of the proceeds, do not exist. If they were prepared, they were destroyed.

Casey's Knowledge

Discrepancies about Casey's knowledge of the diversion also abound. Poindexter testified that he "purposely" did not discuss the subject with Casey.[49] Poindexter's reasoning was that Casey frequently had to testify before Congress and he did not want to place Casey in a position of having to lie.[50] Poindexter further testified that he had no indication that Casey was aware of the diversion aspect of the arms sales operation.[51]

North, on the other hand, testified that he "had consulted very carefully with Director Casey [about the diversion], and he . . . was very enthusiastic about the whole program." [52] He stated that he had told Casey of the plan to use the proceeds for the Contras before the fact, and that he had reviewed with Casey (probably in February 1986) at least one memo referring to the diversion before sending it "up the line" for Presidential approval.[53]

While still at the NSC, North made inconsistent statements about Casey's knowledge. He told Earl in the spring of 1986 that Casey knew.[54] But on November 23, when questioned by the Attorney General, North omitted Casey from the list of persons privy to the diversion. According to North, this omission occurred after Casey had suggested a "fall guy plan" in which North and, if necessary, Poindexter would take the blame.[55]

Another CIA official, Charles Allen, became aware as early as January or February 1986 of the possibility of a diversion. Allen effectively acted as Ghorbanifar's CIA case officer from their first meeting in January 1986. Allen's notes record that, early in their relationship, Ghorbanifar told him that money could be generated from the arms sales to support the Contras and other activities. Allen found Ghorbanifar's statements so "far-fetched" and "trivial" that, although he recorded them in his notes, he did not report them to his superiors.[56] *

By the end of August, Allen had focused on the inflated pricing of the arms sold to Iran and the possibility that money might have been diverted to the Contras.[57] Allen shared his concerns that same month with Richard Kerr, the CIA's Deputy Director of Intelligence, who had succeeded Robert Gates. According to Kerr, Allen told him that the United States had overcharged Iran in the sale of HAWK parts and that the excess money had possibly been diverted to assist the Contras.[58] Kerr said that, as best he could recall, Allen did not explain why he believed that funds might have been diverted to the Contras. Kerr told Allen to monitor the situation and keep him apprised of further developments.

Kerr recalls that he recounted Allen's diversion speculation to Gates, who told Kerr that he also wanted to be kept informed about the matter. Kerr took no further steps.[59] **

Allen remained "very troubled in September that the operation was to spin out of control." [60] On September 9, he met with North following a meeting between North and Poindexter on the Iran initiative. North told Allen that the First Channel into Iran was to be shut down, and that the Second Channel had "flourish[ed] into full bloom."

Allen was surprised by this information.[61] He returned to the CIA "very nonplussed because I couldn't figure out why we would so abruptly shut down the first channel unless we had a very good plan for shutting it down in a way that Ghorbanifar and other creditors of Ghorbanifar would feel assuaged . . . ." [62] Nevertheless, the next day Allen reported this conversation to Casey matter-of-factly and without comment, including a flat, unexplained observation that "[t]o cut Ghorbanifar out, Ollie will have to raise a minimum of $4 million." [63]

On October 1, Allen took his worries to Gates. He told Gates that the Ghorbanifar channel was a "running sore," and that he was concerned that the Iran initiative was "going to be exposed if something isn't done." [64] He also told Gates that "perhaps the money has been diverted to the contras." [65] According to

*Later in the year, George Cave of the CIA grew suspicious when he learned that the Iranians were paying significantly more for the U.S. arms than the CIA was receiving, and heard speculation of a diversion to the Contras. Cave stated in his deposition that he did not report these concerns. Cave Dep., 4/17/87, at 158-59.

**Gates told the CIA Inspector General that he could not recall the meeting in which Kerr apprised him of Allen's suspicions. Kerr Int., 9/23/87, at 6-7.

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Allen, Gates was "deeply disturbed by that and asked me to brief the Director." [66] When Allen briefed Casey a week later, he found that Roy Furmark—a business associate of Saudi entrepreneur Adnan Khashoggi's and former client of Casey's—had been there before him.

As discussed more fully in Chapter 18, Furmark and Casey met on October 7.[67] Although Furmark knew of Ghorbanifar's speculation about the diversion, it is not clear that he shared this speculation with Casey. Furmark's testimony before the Senate Select Committee on Intelligence is somewhat inconsistent on this point.[68] North testified that Furmark had told Casey in early October about the speculation surrounding the diversion to the Contras.[69]

In any event, according to North, the meeting with Furmark triggered Casey to instruct North "that this whole thing was coming unravelled and that things ought to be 'cleaned up' . . ." In response, North testified that he "started cleaning things up"; he "started shredding documents in earnest after [this] discussion with Director Casey in early October . . . ." [70]

When Allen and Gates met with Casey on October 7, Casey did not mention that funds might have been diverted to the Contras.[71] According to Gates, however, "Allen shared his speculation with the Director about the possibility that some of the money was being diverted to the Contras. The Director told him to put all of that down on paper." [72]

Allen's October 14 memorandum did not expressly allege that the profit from the arms deals might have gone to the Contras. Instead, the memorandum recorded Ghorbanifar as stating that, "some of . . . [the] profit was redistributed to other projects of the US and of Israel." [73]

At Casey's direction, Allen and Furmark met on October 16. However, it was not until a subsequent meeting on October 22 also at the CIA, among Allen, George Cave (also of the CIA), and Furmark that Furmark raised, for the first time with Allen, the possibility that funds might have been diverted to the Contras.[74] Allen and Cave reported the substance of this latter meeting to Casey, who appeared "deeply disturbed" by what he was told.[75]

Allen and Cave then jointly prepared a memorandum for Casey to send to Poindexter. This memorandum referred to Ghorbanifar's accusation, which Furmark had repeated, that some of the "bulk of the original $15 million price tag was earmarked for Central America." [76] The memorandum "laid out starkly . . . that Ghorbanifar had made allegations of diversion of funds to the Contras." [77]

Although Casey spoke to Poindexter by secure telephone about the October 22 meeting, the Allen-Cave memorandum never reached Poindexter. According to Allen, the memorandum "fell into the wrong outbox," and was not discovered until November 25.[78]

Allen and Furmark met once more, on November 6. By this time, the publicity of the Iran initiative had occurred. The following day, Allen prepared a memorandum for Casey which reported, among other things, that Furmark had again alerted Allen to the link between the overcharges on the HAWK spare parts and the diversion.[79] On this point, Allen concluded reassuringly that "much of what they know is speculation and cannot be proven." [80]

At Furmark's request, Casey met with him again on November 24 at CIA headquarters. Furmark and Casey reviewed the finances of the Iran arms transactions, and established that the transactions had resulted in excess money. Casey told Furmark that he did not know where the excess had gone.[81]

Before Casey suffered a stroke on December 15, 1986, he maintained that he had not known of the diversion prior to the Attorney General's press conference.[82] He died on May 6, 1987.

How Much Was Diverted?

Even the amount of arms sales profits that were used, and that were intended to be used, for the Contras is the subject of contradictory testimony. The Committees have concluded that at least $3.8 million of the $16.1 million in arms sales profits were used for Contra assistance.[83] Poindexter testified that he believed the entire surplus was used for that purpose.[84] In contrast, North testified that the surpluses were to be used for a number of other covert projects, and that Secord and his partner, Albert Hakim were entitled to a fair profit.[85]

Secord and Hakim testified that no agreement existed on how much of the money would be used for the Contras: it was within their discretion whether to accept or reject any request for expenditure by North. North and Poindexter were both surprised that the Enterprise still has more than $8 million. Poindexter was repeatedly told by North that Secord was losing money, and he assumed that all of the Enterprise's funds had been spent.[86]

Whatever the amount or expectations, the diversion did occur. Money generated by arms sales authorized by a Presidential Finding for only one covert purpose—the Iranian initiative—was used for a wholly different covert purpose—Contra support. Arms-for-hostages also became arms-for-Contras, a purpose that was not authorized by any Finding and that was proscribed by the Boland Amendment for appropriated funds.

Chapter 15

1. North Test., *Hearings,* 100-7, Part I, 7/10/87, at 314-15.
2. Ex. JKS-6.
3. *Id.*
4. *Id.*
5. North Test., *Hearings,* 100-7, Part II, 7/13/87, at 73-74.
6. Israeli Historical Chronology.
7. North Test., *Hearings,* 100-7, Part I, 7/10/87, at 295-96.
8. Secord Test., *Hearings,* 100-1, 5/6/87, at 95-96. North Test., *Hearings,* 100-7, Part I, 7/7/87, at 55-56. According to the Israeli Chronologies, North and Secord told the Israelis only that the money was needed for shipping expenses.
9. Israeli Historical Chronology.
10. N 28749.
11. Koch Test., *Hearings,* 100-6, 6/23/87, at 70-71.
12. North Test., *Hearings,* 100-7, Part I, 7/8/87, at 106.
13. *Id.* at 113-14.
14. *Id.* at 295-96.
15. *Id.* at 106-07.
16. *Id.* at 107-08.
17. *Id.* at 298.
18. Poindexter Test., *Hearings,* 100-8, 7/15/87, at 36; Poindexter Dep., 5/2/87, at 71.
19. Poindexter Test., *Hearings,* 100-8, 7/15/87, at 37.
20. *Id.* at 169.
21. *Id.*
22. Ex. JMP-100.
23. Poindexter Dep., 6/18/87, at 448.
24. McFarlane Test., *Hearings,* 100-2, 5/11/87, at 68-69.
25. Poindexter Dep., 5/2/87, at 182 (emphasis added).
26. Poindexter Test., *Hearings,* 100-8, 7/15/87, at 44, 47; Poindexter Dep., 5/2/87, at 116, 178.
27. Hall Test., *Hearings,* 100-5, 6/8/87, at 477.
28. Poindexter Test., *Hearings,* 100-8, 7/15/87, at 44; Poindexter Dep., 5/2/87, at 188.
29. Poindexter Test., *Hearings,* 100-8, 7/16/87, at 116.
30. Poindexter Dep., 5/2/87, at 72.
31. Poindexter Test., *Hearings,* 100-8, 7/15/87, at 41.
32. North Test., *Hearings,* 100-7, Part I, 7/7/87, at 10.
33. *Id.* at 11-12.
34. *Id.* at 14-15.
35. *Id.* at 12.
36. *Id.* at 14.
37. *Id.* at 12.
38. *Id.* at 19.
39. *Id.* at 10.
40. McFarlane Test., *Hearings,* 100-2, 5/11/87, at 68-69.
41. Secord Test., *Hearings,* 100-1, 5/6/87, at 136-137.
42. North Test., *Hearings,* 100-7, Part I, 7/7/87, at 26-27.
43. *Id.* at 10.
44. *Id.* at 93.
45. Earl Dep., 5/22/87, at 145-47.
46. Coy Dep., 3/26/87, at 79-80.
47. Hall Test., *Hearings,* 100-5, 6/8/87, at 506-507.
48. Exs. OLN-283A, OLN-283B, OLN-283C.
49. Poindexter Dep., 5/2/87, at 173, 187.
50. Poindexter Test., *Hearings,* 100-8, 7/15/87, at 43.
51. *Id.* at 345-46.
52. North Test., *Hearings,* 100-7, Part I, 7/9/87, at 240-41.
53. *Id.* at 134, 249-50.
54. Earl Dep., 5/2/87, at 37.
55. North Test., *Hearings,* 100-7, Part II, 7/13/87, at 40-41.
56. C 184-85.
57. Allen Dep., 4/24/87, at 259.
58. Kerr Int., 9/23/87, at 6.
59. *Id.*
60. Tower, at B-168.
61. Allen Dep., 4/24/87, at 452.
62. *Id.* at 453.
63. C 9517.
64. Tower, at B-168.
65. *Id.*
66. *Id.*
67. Furmark Dep., 7/22/87, at 122.
68. Furmark, SSCI Test., at 70, 73.
69. North Test., *Hearings,* 100-7, Part I, 7/7/87, at 19.
70. *Id.*
71. Tower, at B-168.
72. Gates, Tower Test., at 19.
73. N 10.
74. Furmark Dep., 7/22/87, at 141.
75. Allen, Tower Test., at 33.
76. I 196.
77. Tower, at B-169.
78. *Id.* at B-169-70.
79. C 9371.
80. I 9372.
81. Furmark Dep., 7/22/87, at 167-69.
82. Ex. EM-53.
83. *See* Chapter 22.
84. Poindexter Test., *Hearings,* 100-8, 7/16/87, at 105.
85. North Test., *Hearings,* 100-7, Part I, 7/8/87, at 4-5; see Chapter 22.
86. Poindexter Test., *Hearings,* 100-8, 7/20/87, at 260.