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THE WHITE HOUSE

WASHINGTON

November 10, 1987

MEMORANDUM FOR ARTHUR B. CULVAHOUSE, JR.

FROM: ALAN CHARLES RAUL *ACR*

SUBJECT: Declassification of Report/House Minority:
"The Iran Initiative"

This section of the Report is 33 pages long and arrived for declassification on November 2. The salient points are noted below:

P. 1 - "The majority report seems alternately to be torn between two theses about the Iran Initiative: that it was strictly an arms-for-hostages deal or that, starting in December 1985 or January 1986, it was driven by a desire to provide funds for the Contras. Additionally, the Iran sections of the report continue the majority's portrayal of the Administration as a gang of lawbreakers who would do virtually anything to achieve their objectives, while invoking an exaggerated fear of leaks to keep the truth about activities from Congress.

This portrayal is patently absurd. The hostages were important to President Reagan. He probably did fall victim to his own compassion, and let their personal safety weigh too heavily on him. But it is clear from all the evidence we have that the initiative was pursued primarily for strategic reasons. We may disagree with the underlying assumptions, or with the decision to sell arms, but any honest review of the evidence must acknowledge these intentions, and with the fact that strategic considerations played an important part in the discussions conducted through the so-called Second Channel.

Similarly, the use of residuals to benefit the Contras was certainly seen as a plus -- a 'neat idea' -- by North and Poindexter. But Contras funding never drove the Iran initiative. A sober look at the amount of money involved would make that clear to anyone. At most, the residuals were seen as a peripheral benefit from a policy whose justification lay elsewhere.

We shall show in this section of our report that the Administration did, in fact, substantially comply with the legal requirements. Moreover, the decision not to notify Congress was not based on an anti-democratic obsessions with secrecy, but was based on the same sound reasoning that led

the Carter Administration to the identical decision not to report operations during the Iranian hostage crisis of 1979 and 1980."

- P. 3 - "To explore the chance for an opening, the President decided to sell arms to Iran. Some suggest that this decision stemmed from little more than the President's ignorance, the NSC staff's foolhardiness, and private greed. We completely reject this interpretation. The initiative was controversial. We disagree with the decision to sell arms, and we wish that the whole initiative had proceeded with more caution. But despite these reservations, we remain convinced that the decision to pursue some such initiative was not an inherently unreasonable one."
- P. 6 - "The Reagan Administration's Iran initiative represented an attempt to narrow the differences stemming from the Iranian revolution and the intervening years of hostility. Both sides confronted sharp internal divisions over other issue of rapprochement. In such a situation, the margin between success and failure looms much larger in retrospect than it may seem while events are unfolding. While the initial contacts developed by Israel and used by the U.S. do not appear likely to have led to a long-term relationship, we cannot rule out the possibility that negotiations with the second channel might have turned out differently. At this stage, we never will know what might have been.

In retrospect, it seems clear that this initiative degenerated into a series of 'arms for hostage' deals. But it did not look that way to many of the U.S. participants at the time. In our view, it is simply wrong, therefore, to reduce the complex motivations behind these events to any one simple thesis. Clearly, the participants from different countries, and even those within each country, had different, and sometimes conflicting, motives. Without endorsing or agreeing with the use of arms sales as a tactic, we believe that U.S. officials made a risky, but nevertheless worthwhile effort. To explain why, we shall begin by outlining the strategic importance of Iran."

- P. 10 - "The majority report systematically downplays the importance of strategic objectives in the Iran initiative. We believe, to the contrary, that the record is unambiguous on the following facts: (1) that strategic objectives were important to the participants at all times; (2) that the objectives were credible, (3) that they were the driving force for the initiative at the outset, and (4) that without such a strategic concern, the initiative would never have been undertaken."
- P. 14 - "There are two different intelligence issues raised by the Iran initiative. One is that intelligence gaps or weaknesses influenced U.S. decision. We agree with this

point. The other is that intelligence was 'cooked' to match the preconceived conclusions of policy makers. We strongly disagree with this charge, to the extent that it relates to the information generated by the executive branch. We do believe, however, that some officials -- most notably, Admiral Poindexter and Director Casey -- failed adequately to present the U.S. intelligence community's assessment to the President at a crucial moment of decision."

- P. 18 - "Despite Secretary Shultz's statement, these committees have found absolutely no evidence to support allegations of intelligence bias within the CIA. As Deputy CIA Director Gates has observed, one of the best guarantees against an intelligence bias is the widespread circulation of CIA analyses on Capitol Hill, particularly the intelligence committees' scrutiny of virtually everything the CIA and intelligence community produces."
- P. 20 - "Admiral Poindexter's reliance on an Israeli assessment that Iran's position was deteriorating in the war with Iraq was particularly controversial. White House Chief of Staff Donald Regan's notes of a November 10, 1986 meeting of top advisers makes it clear that the President was still using the assessment as a justification for his decision the previous January to sell arms to Iran. Poindexter acknowledged, however, that the assessment differed from that of the U.S. intelligence community. Poindexter had the option, of course, of agreeing with such an assessment over the one he was getting from U.S. intelligence. But he and Director Casey should have felt an obligation to highlight that disagreement at the time when it was being used to buttress the proposed January 1987 finding. It is clear from Poindexter's testimony that he did not tell the President that his view differed from the majority view within the intelligence community. The evidence seems to suggest strongly, in other words, not that intelligence was 'cooked' by U.S. intelligence, but that the views of U.S. intelligence were not properly passed up the line and highlighted the President."
- P. 28 - "We are inclined to agree with Shultz that Israel was actively promoting the initiative because the initiative suited Israel's own national interest. We disagree, however, with the idea that the U.S. was being played for the sucker. We believe the U.S. Government responsibility made its own judgments, and its own mistakes."
- P. 31 - "It is important to note that the President has an affirmative duty under U.S. law to do everything in his power to secure the release of Americans illegally imprisoned or held hostage abroad. Under the 1868 Hostage Act, invoked by President Carter during the Iranian hostage crisis of 1979-81:

Whenever it is made known to the President that any citizen of the United States has been unjustly deprived of his liberty by or under the authority of any foreign government, it shall be the duty of the President forthwith to demand of the government the reasons of such imprisonment; and if it appears to be wrongful and in violation of the rights of American citizenship, the President shall forthwith demand the release of such citizen, and if the release so demanded is unreasonably delayed or refused, the President shall use such means, not amounting to acts of war, as he may think necessary and proper to effectuate the release; and all the facts and proceedings relative thereto shall as soon as practicable be communicated by the President to Congress.


Under the Hostage Act, the President has a positive, legal obligation to take whatever steps may be necessary and proper, short of war, to secure the release of American citizens. Even without the act, however, we observed in our chapters on the Constitution that the President has a duty to protect the lives and liberty of Americans abroad."

THE WHITE HOUSE

WASHINGTON

November 10, 1987

MEMORANDUM FOR ARTHUR B. CULVAHOUSE, JR.

FROM: ALAN CHARLES RAUL 

SUBJECT: Declassification of Report/House Minority: "The Use of 'Diversion' of the Iran Arms Sales Proceeds"

This section of the Report is 26 pages long and arrived for declassification on November 2. The salient points are noted below:

- P. 2 - "The evidence is overwhelmingly clear, however, that the President did not in fact know about the diversion, despite Democratic wishes to soft-peddle the point by attacking Admiral Poindexter's credibility. In addition, the use of the word 'diversion' itself assumes that the funds belong to the U.S. We shall show later in this chapter that the legal questions surrounding the ownership of the proceeds from the Iran arms sales are by no means settled."
- P. 7 - ". . . the diversion cannot possibly have been a consideration for people at the policy making level before North's London meeting with Ghorbanifar."
- P. 9 - "Poindexter also testified that he believed he had the authority to make the decision on his own to approve the use of the Iranian arms sales surplus for the Nicaraguan resistance. He said that because he had worked for the President for a number of years, he knew what the President would want to have done in this situation. Poindexter stated that to him, the diversion appeared to involve the use of what could be considered either third country funds, or private funds, to support the Contras, and that he believed the President favored the use of such funds to support them. Therefore, in his view, the President would have agreed to the use of surplus funds in such a manner. However, Poindexter said, because he thought it would be politically (as opposed to legally) controversial to use the funds to support the Contras, he decided not to inform the President of it so the President could truthfully deny knowledge if the diversion were revealed."

The President has stated, however, that he would not have consented to the diversion had he known about it. He has also stated that in his opinion, Admiral Poindexter did not have the authority to make the decision without the President's approval. [citation]

The Committees have received no documentary evidence or testimony which shows that any other U.S. Government official approved or in any other way was involved in agreeing to the diversion. Colonel North testified that Director Casey knew about, and was supportive of, the diversion, but North did not suggest that Casey's approval was either sought or required."

- P. 10 - "The evidence available to these Committees shows that the President did not know about the diversion. The President has made this point repeatedly. The Committees have received sworn testimony supporting the President on this point from four individuals with first hand knowledge, and from another individual who directly corroborates some of this key testimony. The plain fact of the matter is that the Committees have no testimony or documentary evidence to the contrary.

Admiral John Poindexter stated under oath, in executive session and during the public hearings of the Committees, that he had not told the President about the diversion. He did so even though he knew that he had thereby deprived himself of an important defense against possible criminal prosecution. Poindexter also testified that he was certain that the 'April 4' diversion memorandum, the only surviving memorandum which documents the proposed diversion, did not go to the President. The Committees have received no credible testimony or documentary evidence which contradicts Poindexter's testimony on these points."

- P. 13 - "North said:

'I did not send them (the memoranda) to the President, Mr. Niels. This memorandum [referring to the April 4 diversion memorandum, exhibit OLN-1] went to the National Security Adviser, seeking that he obtain the President's approval. There is a big difference. This is not a memorandum to the President.

I want to make it very clear that no memorandum ever came back to me with the President's initials on it, or the President's name on it or a note from the President on it. None of these memoranda [seeking approval of the diversion, written to Poindexter]. I do have, as you know, in the files that you have of mine, many, many of my memoranda do have the President's initials on them, but none of these had the President's initials on them.'

Colonel North admitted at the hearings that he had misled General Secord when he told him that the President was aware of the diversion in order to enhance the General's enthusiasm for the project. North also admitted that he had made a comment about the diversion to Poindexter once as they were leaving a meeting with the President, he stated that he believed the President had not heard the remark."

- P. 16 - "Presidential Diaries: Finally, the President's diaries contain only one reference to the diversion. On November 24, the diaries record the fact that he had been informed of the diversion, and that Poindexter and North knew about it. The diaries contain no another reference to the diversion. Since the diaries were created contemporaneously, before the President knew they would be reviewed by anyone, they are consistent with and indeed support the view that the President had no previous knowledge of the diversion."
- P. 17 - "From all of this evidence, it is clear the President did not know about the diversion. A contrary conclusion would have to be based on the view that a series of individuals, including the President, decided to engage in a criminal conspiracy to cove up the President's knowledge and then to lie about it in a well-coordinated manner in sworn testimony, much of it given under grants of immunity protection the witness from use of the testimony against him for anything except a perjury prosecution. The Committees have no evidence of any kind which would lend the slightest support to this contrary view."
- P. 21 - "If the money was rightfully the property of General Secord and Albert Hakim, then it follows that they were free to donate the excess proceeds to the resistance, or use it in any other legal manner that they wished. They may have felt a moral obligation to use the money as suggested by North, but they would have been under no legal obligation to do so.

If, however, the funds belonged to the United States, it follows that the money should have gone into the Treasury of the United States and could only be sent to the Nicaraguan resistance under the terms of an authorized disbursement. Sending the money to the Contras might not technically have been a violation of the Boland Amendment even under these conditions, because the funds were not appropriated. But if the funds were technically the property of the U.S., then the executive had no authority to direct how it would be spent, except under an appropriation or some other legal authorization.

Substantial legal arguments can be made to support and oppose each of the conclusions about who owns the

Enterprise's funds. In support of the view that the funds belonged to the United States, it can be argued that Secord was acting as an agent of the United States. The facts that the price to Iran for the arms was set in consultation with North, that the United State selected Iran as the ultimate buyer, that the United States anticipated that the sales would trigger Iranian help in the release of American hostages hold in Lebanon, that Secord and Hakim represented themselves as spokesmen for the United States at various times, that Secord did not expect to make a profit from his services, and that North and Secord both expected that any surpluses would be used to further U.S. interests, all support the contention that Secord was an agent and that the surplus funds were the property of the United States.

On the other hand, there are substantial facts to support the conclusion that Secord was purely an independent contractor, with his own risks of profit and loss. Secord was never designated formally, in writing or otherwise, as a United States agent. Any argument that he was an agent has to be based on a theory of constructive trust rather than from facts that will show an explicit, written trust relationship.

One relevant fact that would support the conclusion that the U.S. did not have an automatic claim to the funds would be that the CIA and DOD were paid the full amount the law requires for the arms, and refused to transfer the weapons until full payment was received. That fact would not settle the issue, however, because the price the Defense Department set was based on the knowledge that the first buyer was another government agency, the CIA. The real question of ownership does not turn on the relationship between Defense and CIA, but between the CIA or NSC, on the one hand, and the Enterprise, on the other.

It does seem relevant, on Secords' side of this argument, that the Enterprise assumed all of the major financial risks of the operation. For example, if the arms were destroyed during the shipment because of an air crash or otherwise, there was no agreement that the CIA would restore to the Lake Resources account the payment previously received. Similarly, if Iran was dissatisfied with the arms and refused to pay -- as occurred with the transfer of Israeli arms in November 1985 -- there was no understanding that the CIA would repurchase the arms for the amount previously paid.

- P. 24 - "We have not attempted to resolve this legal question of ownership, because it is not within the charter or province of the congressional investigating committees to do so. It is a matter for the courts to decide. We do, however, believe that even if Secord and Hakim were not agents under the technical terms of the law, they nevertheless received

the arms sale proceeds only because there was an expectation between themselves and North, based on trust, that they were getting the business and the residuals only because they were expected to put the money toward mutually agreed upon public ends. Whether legally required to do so or not, therefore, they ought to feel some moral obligation to turn the surplus over to the United States, after deducting reasonable costs and compensation for services."

P. 25 - ". . . the decision to use part of the proceeds of the Iran arms sales for the benefit of the Contras was extremely unwise. Even if the diversion is determined by the courts to have been legally permissible, it was the result of poor judgment on the part of United States Government officials. The decision to proceed with the Iran arms sale was itself fraught with great potential for controversy and disagreement. There was no sound basis whatsoever for adding to the political risks of the operation by bringing into it another hotly debated aspect of American foreign policy.

It was equally folly not to tell the President what was being planned to be done with the proceeds of the arms sales. The question of legality aside, the President should have been given the opportunity to exercise his own good judgment to instruct the participants not to allow the diversion.

THE WHITE HOUSE

WASHINGTON

November 10, 1987

MEMORANDUM FOR ARTHUR B. CULVAHOUSE, JR.

FROM: ALAN CHARLES RAUL *ACR*

SUBJECT: Declassification of Report:
"Additional Views of Senator Paul Trible"

This section of the Report is 5 pages long and arrived for declassification on November 6. The salient points are noted below:

- P. 1 - "The essence of the Iran/Contra Affair lay in the decision by a few within the National Security Council staff to embark on a self destructive journey into the privatization of foreign policy. The pitfalls associated with this departure from long established principles of government are well chronicled in the report. The main lessons are: that a President's staff, no matter how well intentioned, must always be accountable; that a President who is deceived and from whom information is intentionally withheld is a President betrayed; and that truth, trust and respect for the rule of law and the Constitution are indispensable to the success of our free society."
- P. 2 - "The report vividly demonstrates the folly of placing public policy in the hands of private citizens motivated in part by profit. Since Old Testament times, man has been admonished that he cannot serve two masters. Yet the decision to permit Secord, Hakim and their confederates to negotiate in the name of the United States, while permitting their enterprise to reap huge profits, frustrated our nation's policy goals, embarrassed our government and confused our allies Time and again during our deliberations in the Iran/Contra Affairs, we return to one central theme -- our nation's lack of foreign policy consensus. Whether one looks at the Administration ignoring established foreign policy channels or at a Congress writing ambiguous prohibitions on use of appropriated funds the reason is the same: our inability to agree on the appropriate role of America in the world.

This sharp disagreement -- the breakdown in a bipartisan approach to foreign policy -- has led to confrontation, misunderstanding and created an atmosphere of suspicion that is the enemy of coherent and thoughtful decision making."

THE WHITE HOUSE

WASHINGTON

November 12, 1987

MEMORANDUM FOR ARTHUR B. CULVAHOUSE, JR.

FROM:

ALAN CHARLES RAUL 

SUBJECT:

Declassification of Report: "Appendix C --
Organization and Conduct of the Committees'
Investigation"

This section of the Report is 31 pages long and arrived for declassification on November 11. The salient points are noted below:

- P. 1 - "The investigation of the Iran/Contra Affair by these two Select Committees was one of the more far-reaching that Congress has conducted in recent decades, extending to many offices and agencies of the U.S. Government, to Government and commercial activities throughout the United States, and to events in a number of foreign nations."
- P. 10 - "Procedures for granting security clearances to House Committee staff represented a significant advance in clearing staff of Congressional investigations. Under an arrangement with the Special Counsellor to the President, Chairman Hamilton submitted to the Department of Justice the name and background information on each individual whom he was considering for clearance. The executive branch, usually through the Federal Bureau of Investigation, conducted the standard background investigations and submitted the results to Chairman Hamilton. When he was satisfied that the individual met the requirements for clearance, he informed the individual and the Department of Justice, which provided an indoctrination briefing on security. The individual then executed both a briefing acknowledgment and a nondisclosure form developed by the House Committee. (See letter from Chairman Hamilton to David M. Abshire, Special Counsellor to the President.)"
- P. 24 - "Cooperation from the President

The Committees received cooperation from the White House. The President did not claim executive privilege, and he directed pertinent executive departments, including the White House, to make available all relevant documents and personnel. The President also made available his personal biographer for interviews and relevant extracts from his personal diaries, pursuant to an agreement between the Committees and the White House. The President declined,

THE WHITE HOUSE

WASHINGTON

November 12, 1987

MEMORANDUM FOR ARTHUR B. CULVAHOUSE, JR.

FROM: ALAN CHARLES RAUL *ajr*

SUBJECT: Declassification of Report: "Statement of Chairman Daniel K. Inouye and Vice Chairman Warren Rudman"

This section of the Report is 3 pages long and arrived for declassification on November 11. The salient points are noted below:

- P. 1 - "We wish to acknowledge the bipartisan spirit that characterized our Committee's work and resulted in a Report signed by all the Democrats and a majority of the Republican Members of our Committee Once our investigation commenced, the White House rose above partisan considerations in cooperating with our far-reaching requests and in ensuring the cooperation of other agencies and departments of the Executive Branch We were nevertheless able to draw on the diaries in reaching our conclusions; and we do not fault the President for his decision that the entries themselves, none of which alter the conclusions of the Report, should not be paraphrased in the Report."
- P. 2 - "The White House has cooperated with the Committees' experts in providing information and personnel to facilitate the development of the requisite program; and the Committees' experts have recently advised that they now believe they have succeeded in producing the software. The White House is continuing to cooperate in producing the requested computer 'dump.'"

. . . all of the Members of our Committee wish to note that in connection with the computer 'dump' request, as with all other of our requests throughout the investigation, while there have been some disagreements and compromises, the record has been one of cooperation by the White House -- a record which we hope will serve as a precedent for future Administrations."

THE WHITE HOUSE

WASHINGTON

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episode. Reporters from Time magazine, the House
Committee, met with White House communications specialists

THE WHITE HOUSE

WASHINGTON

November 12, 1987

MEMORANDUM FOR ARTHUR B. CULVAHOUSE, JR.

FROM: ALAN CHARLES RAUL *AR*

SUBJECT: Declassification of Report: "Additional Views of
Congressmen Peter W. Rodino, Jr., Dante B.
Fascell, Jack Brooks and Louis Stokes"

This section of the Report is 28 pages long and arrived for declassification on November 11. The salient points are noted below:

- P. 2 - ". . . because of President Reagan's personal commitment that the Executive Branch would fully cooperate with the Committees, we did not issue subpoenas to any person or agency in the Executive Branch. However, the White House itself and a number of other executive agencies on several occasions refused to produce documents or delayed production to such an extent that the materials could not be reviewed in time for witness interviews or public testimony."
- P. 5 - "The Committee did not receive Admiral Poindexter's telephone logs until after Colonel North had testified. North could not be questioned about the calls, rendering it impossible to investigate completely all their conversations."
- P. 6 - "A complete set of Chief of Staff Regan's notes were not reviewed by the Committees until September. They revealed a conversation between Perot and Regan in December 1986 in which they discussed the possible testimony of North and Poindexter. By the time the Committees learned of the notes, it was too late to investigate the conversation.

These are examples of areas that Independent Counsel Walsh and the standing Committees of the House and Senate may wish to pursue."

- P. 7 - "[W]hen one reviews the Attorney General's conduct during the Iran/Contra episode, it is impossible to avoid questions about his actions. Some of these questions relate to the legal advice he rendered, some involve his knowledge of the underlying events prior to the time he began his November 1986 'inquiry,' and some relate to the 'inquiry' itself."

- P. 16 - "The Attorney General's press conference on November 25, 1986 also raises troubling questions. The Attorney General stated flatly that the President had not known of the Israeli pre-finding arms shipments to Iran and that the proceeds of the arms sales had been sent directly from the Israelis to the Contras; but these statements were wrong and were contrary to the information Mr. Meese had received during his inquiry. A number of his other pronouncements at the press conference were of dubious accuracy, and it was at best premature -- given the nature of his inquiry -- for Mr. Meese to state categorically that neither the President nor any Cabinet official knew of the diversion."
- P. 18 - "Because of the Attorney General's failure to act promptly to preserve documents, to conduct thorough interviews -- and in some instances, any interviews -- of the major actors in these events, we may never know the answers to many of the key questions that have been raised by this affair. Regrettably, in the minds of many, the issue will always remain as to why the questions were never asked."
- P. 25 - "(Spivey also stated to the Committee that, in early 1985, North admitted he could go to jail for violating the Boland Amendment, so he was going to 'lay low' until Ed Meese was confirmed as Attorney General. Time did not permit the Committees to investigate Spivey's claim.)"
- P. 26 - "On July 17, 1986, North sent a memorandum to Poindexter claiming Terrell was conducting an 'active measures' campaign against the Contras. North asserted Terrell was the source of Congressional and media reports against the Contras. He also said the FBI believed Terrell might be involved in a plot to assassinate President Reagan. Poindexter told North to write a memo to forward to the President, which he did on July 28, 1986.

The memo to the President stated that Terrell was the source of anti-Contra allegations and was a cooperating witness in the Miami Neutrality Act investigation involving gun running, narcotics smuggling and assassination plots. North failed to mention that it was actually the pro-contra forces that were being investigated for these activities. North concluded the memo by saying: 'Since it is important to protect the knowledge that Terrell is the subject of a criminal investigation, none of those with whom he has been in contact on the Hill has been advised.'