



Chapter 4

Paul B. Thompson

Paul B. Thompson, a Navy commander who was detailed to the National Security Council (NSC) staff in June 1983, became military assistant to National Security Adviser Robert C. McFarlane in January 1985. In June 1985, he also became NSC general counsel. When McFarlane resigned in December 1985 and was replaced by his deputy, Vice Adm. John M. Poindexter, Thompson retained his dual post.

As military assistant, Thompson provided administrative support to the national security adviser. Most paperwork passed through Thompson on its way to the national security adviser,¹ and NSC staff members would often schedule meetings or communicate with the national security adviser through Thompson.² Poindexter, unlike McFarlane, allowed Thompson to sit in on meetings in his office.³ Both McFarlane and Poindexter occasionally gave documents to Thompson to store in safes in or near his office.⁴

1 Poindexter, Grand Jury, 6/27/90, p. 12. Ronald K. Sable, FBI 302, 8/6/90, p. 2. McFarlane said his papers were routed through Thompson or secretary Wilma Hall. (McFarlane, FBI 302, 3/11/87, p. 2.) Thompson said his paperwork role expanded under Poindexter. (Thompson, Grand Jury, 5/13/87, pp. 20-22.)

2 McFarlane, FBI 302, 9/13/90, p. 3; North, Grand Jury, 6/6/90, pp. 9-10; Sable, FBI 302, 8/6/90, p. 2. As Thompson himself put it, "I was the military assistant to the National Security Adviser and wherever he was in the world, I was the one that stayed up all night on the phone." (Thompson, Select Committees Deposition, 7/24/87, p. 74.)

3 Poindexter, Grand Jury, 6/27/90, p. 75; McFarlane, FBI 302, 9/13/90, pp. 2, 3. According to NSC Legislative Affairs Director Ronald K. Sable, Thompson was Poindexter's "right hand." (Sable, Grand Jury, 8/10/90, p. 11; and Sable, FBI 302, 8/6/90, p. 2.)

4 McFarlane, FBI 302, 9/13/90, p. 2; Poindexter, Select Committees Deposition, 6/17/87, p. 368; Poindexter, Select Committees Testimony, 7/15/87, pp. 45-46.

As general counsel, Thompson provided legal advice to McFarlane and Poindexter, although he consulted on many issues with White House counsel and counsel for other agencies and departments.⁵ McFarlane in particular preferred to use Thompson only as an avenue for getting legal advice from others on important or complex matters.⁶

5 Rodney B. McDaniel, Grand Jury, 4/4/90, pp. 14-17; Sable, Grand Jury, 8/10/90, p. 91.

6 McFarlane, FBI 302s, 9/13/90, pp. 2, 10, and 3/13/87, p. 8.

Thompson was not involved in the operational details of either the Iran arms initiative or the contra-resupply effort. In his position as military assistant to McFarlane and Poindexter, however, Thompson did become involved in the criminal acts of others in Iran/contra.

Independent Counsel's investigation of Thompson focused on his role in Poindexter's destruction of a presidential Finding on November 21, 1986. Independent Counsel also investigated Thompson's role in McFarlane's false denials to Congress in 1985 regarding Lt. Col. Oliver L. North's contra-support efforts, and his role in Poindexter's false statements to Congress about North in 1986. In

relation to these matters, OIC was concerned also with statements made by Thompson to congressional and criminal investigators that were potentially false or misleading.

Although there was strong evidence for a possible false statements and obstruction case against Thompson, Independent Counsel ultimately decided not to prosecute him. The evidence and the reasons for not prosecuting are detailed below.

Thompson's Role in the November 1985 HAWK Shipment and the Destruction of the Finding

In November 1985, while Thompson and McFarlane were in Geneva with President Reagan, Israeli Defense Minister Yitzhak Rabin called McFarlane for assistance in making a shipment of U.S.-made HAWK missiles from Israel to Iran. Over the next several days, McFarlane was in contact with North in Washington about operational details, in an attempt to facilitate the shipment.

Thompson was frequently the point of contact between North and McFarlane, relaying messages about the planned shipment between the two. Among the messages that Thompson relayed was a request from North for McFarlane to call the prime minister of a European country to obtain landing rights for the plane carrying the HAWK missiles from Israel to Iran.⁷ In addition, Thompson informed Poindexter, who was also in Washington, that McFarlane had asked North for help with an "Israeli aircraft problem." Because they were speaking on a non-secure phone line, however, Thompson was not more specific about the project and suggested that Poindexter ask North for the details.⁸

⁷ North, Grand Jury, 6/6/90, p. 10; McFarlane, FBI 302, 9/13/90, p. 17; Thompson, Select Committees Deposition, 3/9/87, pp. 105-107; Thompson, Grand Jury, 5/20/87, pp. 63-66; Thompson, FBI 302s, 11/29/86, p. 3, 4/3/87, p. 3, 5/19/87, p. 6, and 1/3/91, pp. 3-4.

⁸ Poindexter, Select Committees Deposition, 5/2/87, pp. 80-81, and 6/17/87, p. 344; Poindexter, Select Committees Testimony, 7/15/87, pp. 39-40; Poindexter, Grand Jury, 6/27/90, pp. 61-63, and 10/31/90, p. 23.

In his first congressional deposition, Thompson minimized his role in the November 1985 HAWK shipment, claiming that he did not inform McFarlane of North's reason for asking him to call the prime minister of a European country and that, at the time, he had "no idea" what the call was about.⁹ Subsequently, although Thompson acknowledged that he knew that McFarlane's call involved landing rights for an aircraft and that the Israelis had an interest in the plane, Thompson continued to assert that he did not know that the plane was carrying weapons or that its destination was Iran.¹⁰

⁹ Thompson, Select Committees Deposition, 3/9/87, pp. 106-107.

¹⁰ Thompson, Grand Jury, 5/20/87, pp. 63-66; see also Thompson, FBI 302s, 11/29/86, p. 3, 4/3/87, p. 3, 5/19/87, p. 6, and 1/3/91, pp. 3-4.

In passing substantive messages between North and McFarlane about the transaction, Thompson did gain some information about the shipment -- so much so that when he gave McFarlane one message from North, McFarlane registered surprise at the extent of Thompson's knowledge.¹¹ Independent Counsel obtained no conclusive evidence, however, contradicting Thompson's assertions that he did not know the cargo or destination of the HAWKs flight.¹²

¹¹ Thompson, FBI 302, 5/19/87, p. 6.

¹² North told the Select Committees it was "possible" that Thompson did not know the truth about the HAWK shipment. (North, Select Committee Testimony, 7/7/87, pp. 102-104.) But in his trial, North said he believed that Thompson knew that the plane was bound for Iran and had weapons on

board. (North, North Trial Testimony, 4/12/89, pp. 7630-7632.) North later told the Grand Jury that it was "inconceivable" that Thompson "would not have known what was on that airplane in November of 1985." (North, Grand Jury, 6/15/90, p. 74.) McFarlane said although Thompson acted as a channel for information between him and North, he probably would have "cloaked" the operation from Thompson. (McFarlane, FBI 302, 9/13/90, pp. 17-18.)

After the November 1985 HAWK shipment, the CIA sought a Presidential Finding to authorize retroactively its involvement in the shipment. On December 5, 1985, Poindexter presented the Finding to the President, and he signed it.¹³ Poindexter kept the Finding in his immediate office.¹⁴

¹³ Poindexter, Select Committees Deposition, 5/2/87, pp. 105-106; Poindexter, Select Committees Testimony, 7/15/87, pp. 41-44.

¹⁴ Poindexter, Select Committees Deposition, 6/17/87, pp. 367-368; Poindexter, Select Committees Testimony, 7/15/87, p. 45; Poindexter, Grand Jury, 6/27/90, pp. 66-67.

Poindexter later contended that he was unhappy with the language of the 1985 Finding because it justified the arms shipments to Iran as a narrow, arms-for-hostages deal rather than a broad initiative to improve relations with moderates in the Iranian government.¹⁵ He discussed a more broadly worded draft Finding with President Reagan on January 6, 1986, and the President signed the draft. The President signed a final version of a Finding authorizing the Iran arms sales on January 17. Because of the extreme sensitivity of all three Findings -- the December 1985, and January 6 and 17, 1986, Findings -- copies were not distributed through regular channels to the State and Defense departments, and the CIA.¹⁶ Poindexter retained personal custody of the January 17, 1986, original Finding in an envelope that also contained the December 1985 Finding and the January 6 Finding, and permitted no other copies to be made.¹⁷

¹⁵ Poindexter, Select Committees Testimony, 7/15/87, p. 45; Poindexter, Grand Jury, 6/27/90, pp. 71, 75-78, and 10/31/90, pp. 19-20.

¹⁶ Poindexter, Grand Jury, 6/27/90, pp. 69, 72-73.

¹⁷ Thompson, Grand Jury, 5/20/87, pp. 79-80, 84-85.

Thompson participated peripherally in the drafting of the January 17, 1986, Finding. On the evening of January 16, Poindexter, Attorney General Edwin Meese III, Secretary of Defense Caspar Weinberger, CIA Director William Casey, and CIA General Counsel Stanley Sporkin met in Poindexter's office.¹⁸ During the meeting, Poindexter called in Thompson and asked him whether the executive order establishing an arms embargo of Iran was still in effect. Either Weinberger or Meese also asked Thompson whether Iran was still on the State Department's list of countries sponsoring international terrorism.¹⁹ At about this time, Thompson had a general discussion with Sporkin about withholding congressional notification of a Finding.²⁰

¹⁸ Ibid., pp. 57-58; Thompson, FBI 302s, 11/29/86, p. 2, and 4/3/87, p. 3.

¹⁹ Thompson, Select Committees Deposition, 3/9/87, pp. 43-44; Thompson, Grand Jury, 5/20/87, pp. 57-58; Thompson, FBI 302s, 11/29/86, p. 2, 4/3/87, p. 3, and 7/22/88, p. 7.

According to Poindexter, Thompson was in and out of the meeting. (Poindexter, Select Committees Deposition, 5/2/87, p. 151; Poindexter, Grand Jury, 6/27/90, pp. 18, 74-75.) Poindexter said Thompson's sole contribution to the meeting was to retrieve a copy of the Arms Export Control Act from his office (Ibid., pp. 70-71, 74-75, 85-87; Poindexter, Grand Jury, 10/31/90, p. 21.)

²⁰ Thompson, Grand Jury, 5/20/87, pp. 31-33, 58-60.

On either January 17 or January 20, 1986, Poindexter handed Thompson the envelope that contained the three Findings so that Thompson could show the signed version of the January 17 Finding to three CIA officials -- Sporkin, Deputy Director for Operations Clair E. George, and Thomas Twetten, deputy chief of the Near East Operations Division.²¹ Throughout most of 1986, Thompson kept the envelope containing the three Findings in the safe in his office.²²

²¹ Ibid., pp. 25-35; Thompson, FBI 302s, 11/29/86, pp. 2-3, and 5/19/87, p. 4.

²² Poindexter said Thompson had custody of the envelope beginning some time in 1986. (Poindexter, Grand Jury, 6/27/90, p. 102, and 10/31/90, pp. 31-32.) Thompson certainly had the Findings in his safe on October 21, 1986, when Poindexter sent him a computer note asking him to make a copy of "the very sensitive finding" on the Iran initiative for Casey. (PROFs Note from Poindexter to Thompson, 10/21/86, ALU 049972).

Thompson conceded that he was the knowing custodian of the January 17, 1986, Finding at "various times" throughout 1986,²³ but he flatly denied having any knowledge of the 1985 Finding.²⁴

²³ Thompson, Select Committees Deposition, 7/24/87, p. 30; see also Thompson, Select Committees Deposition, 4/28/87, pp. 45-46; and Thompson, Grand Jury, 5/20/87, pp. 79-80.

²⁴ Thompson, Select Committees Deposition, 4/28/87, p. 47.

On the morning of November 21, 1986, President Reagan authorized Attorney General Meese to conduct a fact-finding inquiry into the Iran arms sales. The White House meeting at which the inquiry was authorized was attended by the President, Meese, White House Chief of Staff Donald T. Regan and Poindexter. One focus of Meese's inquiry was to resolve a conflict within the Administration about the November 1985 HAWK shipment: Secretary of State George Shultz said he knew at the time of the shipment that the cargo was HAWKs because McFarlane had briefed him, but NSC and CIA officials were stating that the Government did not know the true nature of the shipment until after the fact.

According to Poindexter, early in the afternoon of November 21, 1986:

the Attorney General called me and said, "In following up on our discussion with the President this morning," he said, "I would like to be able to send over a couple of my people to look at the files and records that you have and could you have somebody pull them together and I'll have my people get in touch with Commander Thompson," who was my military assistant, also the General Counsel for the NSC, and the primary liaison with the Attorney General's front office.

So immediately after the telephone call from the Attorney General, I called Commander Thompson on the intercom and told him about the Attorney General's request and I asked him to take responsibility for pulling the material together.

After I finished talking to him, I called Colonel North, told him the same thing. I wanted him to clearly understand the directions that I had provided to Commander Thompson about pulling the material together. He said that he would do that.²⁵

²⁵ Poindexter, Select Committees Deposition, 5/2/87, pp. 109-10.

Later on November 21, Poindexter said Thompson:

brought in to my office the envelopes that I had given him earlier containing the material we had on the Iranian project in the immediate office, which was essentially the various Findings, and he pulled out this November Finding, it was actually signed in December, and my recollection is that he said something to the effect that, "They'll have a field day with this," or something to that effect.

And my recollection is that the import of his comment was that up until that time in November of 1986, the President was being beaten about the head and shoulders, that this was -- the whole Iranian project was just an arms-for-hostages deal.

. . . [W]hen he made his comment, I said, 'Well, let me see the Finding,' and he pulled it out and gave it to me, and I read it . . .26

26 Poindexter, Select Committees Testimony, 7/15/87, pp. 47-49.

Poindexter said the 1985 Finding gave the impression that the Iran initiative was nothing more than an arms-for-hostages deal, and

I, frankly, didn't see any need for it at the time. I thought it was politically embarrassing. And so I decided to tear it up, and I tore it up, put it in the burn basket behind my desk.²⁷

27 Ibid., p. 48.

North, who was in Poindexter's office at the time, witnessed the destruction of the Finding and later gave testimony regarding it.²⁸ According to both North and Poindexter, Thompson was present when Poindexter destroyed the 1985 finding.²⁹

28 North, North Trial Testimony, 4/12/89, pp. 7612-13, 7615-18; North, Poindexter Trial Testimony, 3/12/90, pp. 1252-55.

29 Poindexter, Select Committees Deposition, 5/2/87, p. 114; Poindexter, Select Committees Testimony, 7/15/87, pp. 48-49; North, North Trial Testimony, 4/12/89, pp. 7613, 7615; North, Poindexter Trial Testimony, 3/12/90, p. 1250, and 3/14/90, p. 1539.

In Thompson's first congressional deposition, he admitted that he spoke to Poindexter on the afternoon of November 21 and that Poindexter told him that Justice Department personnel would be coming over to review the NSC's Iran arms sale files. According to Thompson, later that afternoon Assistant Attorney General Charles Cooper called him and said that two Justice Department officials would be coming over to review North's files.³⁰ In this initial testimony, Thompson volunteered no information about the destruction of the 1985 Finding.

30 Thompson, Select Committees Deposition, 3/9/87, p. 90.

Subsequently, Thompson changed his testimony. In one OIC interview and in two Grand Jury appearances, Thompson categorically denied that he had any conversation with Poindexter on November 21 about the Justice Department's fact-gathering inquiry.³¹ More importantly, in a congressional deposition in April 1987, Thompson stated that he had no knowledge at all of the 1985 Finding:

31 Thompson, FBI 302, 4/22/87, pp. 8-9; Thompson, Grand Jury, 6/1/87, pp. 7-9.

Q. The CIA has produced what they call a mini-Finding which was drafted by Stan Sporkin, General Counsel at the CIA, shortly after the November '85 shipment. Have you ever seen the document I have just described?

A. No.

Q. To your knowledge was it ever signed by the President?

A. Not to my knowledge.

Q. Did anybody ever tell you that it was signed by the President?

A. No.

Q. Have you seen -- I've not shown it to you because I did not bring it with me, but have you ever seen the document I'm referring to?

A. No. There was an earlier Finding involving Iran from early January, but you're talking about yet a different Finding.

Q. Yes. I'm talking about one that would have been drafted in late November or early December of 1985.

A. No. That sounds like that Finding didn't go anywhere.

MR. McGRATH [Associate White House Counsel]: The Finding you are referring to is substantially different than the ones that Mr. Thompson saw in late January.

MR. EGGLESTON [Deputy Chief Counsel, House Select Committee]: It's a Finding that relates to the November '85 shipment and it's a ratification Finding, if you will. It's a Finding which in the last paragraph, since the events had already taken place, is a Finding which states in the last paragraph or maybe the last sentence that ``this Finding ratifies the prior actions by the Central Intelligence Agency."

BY MR. EGGLESTON: (Resuming)

Q. I take it that description of it doesn't bring anything to your mind, Mr. Thompson.

A. No.³²

³² Thompson, Select Committees Deposition, 4/28/87, pp. 47-48 (emphasis added).

Thompson also stated in the spring of 1987 that he had no knowledge of anyone at the National Security Council or the White House, other than North, destroying or altering any documents relevant to the Iran arms sales.³³

³³ Thompson, Grand Jury, 6/1/87, pp. 87-89.

In May 1987, during a closed deposition before the Select Committees staff pursuant to an immunity order, Poindexter was the first witness to reveal that he destroyed the 1985 Finding, and he said Thompson was aware of that destruction. The next month, the Select Committees questioned Thompson about it.

On June 26, 1987, after being questioned by the Committees, Thompson was interviewed at his initiative by an OIC attorney and an FBI Special Agent. Thompson stated that the Senate Select Committee had asked him whether he had any information about the destruction of documents by a senior White House official from November 17-25, 1986. Thompson said he now remembered a meeting at which Poindexter asked him to retrieve Poindexter's Iran file from Thompson's safe.³⁴ After he retrieved the file, Thompson stated, Poindexter went through it, looked at one document, commented that this was not it, and then ripped up the document.³⁵ Thompson said the document that Poindexter destroyed could have been the January 6, 1986, Finding, the January 17, 1986, Finding, the December 1985 Finding, or another Finding.³⁶ Thompson had told a similar story to the staff of the Senate Select Committee the same day.³⁷

³⁴ Thompson, FBI 302, 6/26/87, pp. 2-3.

³⁵ Ibid., p. 2.

36 Ibid., pp. 2-3.

37 Memorandum from Terry A. Smiljanich to the File, 6/26/87, pp. 3-5, AMY 000174-76.

In July 1987, Poindexter appeared before the Select Committees. In that nationally televised appearance, Poindexter testified that Thompson removed the 1985 Finding from the safe in Thompson's office on November 21, 1986, brought it to Poindexter, told Poindexter, ``They'll have a field day with this," and watched without objection as Poindexter destroyed the finding.³⁸ After hearing that testimony, Thompson in a congressional deposition attempted to explain the inconsistency between his prior testimony and Poindexter's. Thompson now admitted that, contrary to his earlier testimony, he had discussed the fact-finding inquiry with Poindexter on November 21. According to Thompson:

38 Poindexter, Select Committees Testimony, 7/15/87, pp. 47-48.

I met with him [Poindexter] in his office for about 30 seconds, and he told me that Meese was going to send people over, to be cooperative, and at that time he handed me this accordion file . . . with his working papers, and said basically, ``Here is what I have got. Let them see what you have, and assist them in whatever else they want to do in the staff." ³⁹

39 Thompson, Select Committees Deposition, 7/24/87, p. 32.

Thompson said that he did not look through the file that Poindexter handed him immediately. Rather, according to Thompson, an hour or two later he joined a meeting in Poindexter's office that probably was attended by North, Poindexter's Deputy Alton Keel, and NSC Executive Secretary Rodney McDaniel.⁴⁰ Thompson said:

40 Ibid., p. 34.

Right during the conversation while I was there, the Admiral kept saying, ``There is yet another document." Or, ``There is some memo that we still haven't come up with that I know has to be somewhere."

When I heard him say those words, I thought to myself, perhaps it is among the working papers that he gave me earlier, and since I had not looked at them, perhaps it would be helpful one more time for him to look at them. So I got back up, went out and came back in carrying his accordion file. . . .

And the conversation continued. I came back in. The conversation continued on a subject I can't recall, but I assume it had to do with general posturing and strategy in dealing with the congressional requests and press requests and so forth. We had just finished briefing both the House and Senate committees, and I suspect we were trying to have a discussion as to where we stood on the issue. At any rate, as the conversation was continuing, I would open the file and quickly take out documents, look at them to see their general subject matter, and I would hand them to him.

He was sitting off to my left, and he would just kind of look at them and drop them or leave them on his lap. One document we came to he ripped up, not as a major action, but merely as he came to it. He ripped it up saying, ``This is no longer necessary." Or, ``This has no future." That document turns out to have been the finding of the fall of 1985.⁴¹

41 Ibid., pp. 33-36. Poindexter contradicted Thompson's account again in the Grand Jury. (Poindexter, Grand Jury, 10/31/90, pp. 42-43.) In addition, Poindexter stated that he could not recall giving Thompson any documents related to the Justice Department's fact-finding inquiry on November 21. (Ibid., p. 57.)

Thompson provided no explanation for recanting his earlier testimony that he had not talked to Poindexter on November 21 about the fact-finding inquiry and that he had no knowledge of

document destruction (other than North's) related to the Iran initiative.

Thompson's Role in False Denials to Congress Regarding North's Contra Activities

Independent Counsel investigated Thompson's role in McFarlane's false responses to Congress in the summer of 1985, when two committee chairmen asked about press allegations of North's contra-aid activities.

In response to the inquiries, which came while McFarlane was out of town, NSC staff member Brenda Reger informed Poindexter that she would search NSC institutional files but not North's personal files.⁴² NSC Deputy Executive Secretary Robert Pearson in a computer note to Thompson reiterated this fact,⁴³ and Thompson informed McFarlane.⁴⁴

42 Memorandum from Reger to Poindexter, 8/20/85, AKW 026758-59.

43 PROFs Note from Pearson to Thompson, 8/23/85, AKW 026746.

44 McFarlane, FBI 302, 9/13/90, pp. 4-5.

The decision not to search the files in North's office was an important one. Some of the memoranda that North had written about his contra activities were not logged in on the NSC institutional file system and, therefore, were not uncovered in Reger's search. Although Reger and Pearson were apparently concerned enough about the possibility that there were "non-log" memoranda in North's office to document in writing the limits of their search, there is no evidence that Reger, Pearson or Thompson knew with certainty that North's office contained relevant non-log documents.⁴⁵

45 Thompson may not have been involved in the initial decision not to search North's office. According to Thompson, he was on vacation in Maine at the time that the first congressional inquiry was received and was not aware at the time of the decision. (Thompson, Grand Jury, 5/13/87, pp. 58, 60-62.) Poindexter, however, noted that Thompson and Reger "normally worked very closely together on these issues." (Poindexter, Grand Jury, 6/27/90, p. 37.)

In his first Select Committees deposition Thompson minimized his knowledge of the limits of Reger's document search in August 1985:

Q. Did you, in the course of preparing this response [to the congressional inquiries], did you search Mr. North's own office, his personal office?

A. No, I did not. I relied on a normal system search and that was performed under the auspices of our Directorate of Information Policy, Brenda Reger.

Q. Do you know whether there was a conscious decision not to search his office?

A. I am not aware of any decision not to.⁴⁶

46 Thompson, Select Committees Deposition, 3/9/87, p. 38.

There is ample evidence that Thompson was aware of the decision not to search North's office. As described above, Thompson (1) received Reger's memorandum dated August 20, 1985 (a copy of which was retrieved from Thompson's personal files); (2) received Pearson's computer note dated August 23; and (3) informed McFarlane that a decision had been made not to search North's office.⁴⁷

47 Also, in early September 1985, Thompson showed the President's Intelligence Oversight Board Counsel Bretton G. Sciaroni the documents that had been gathered in the search of NSC institutional files and told him that North's office had not been searched for documents. (Sciaroni, Grand Jury,

6/1/87, pp. 14-19; Select Committees Deposition, 6/1/87, pp. 20-21; and FBI 302s, 5/22/87, p. 1, and 3/19/87, p. 2.)

After completing the NSC institutional file search, Reger sent Thompson the documents that appeared to be relevant to the congressional inquiries. Thompson then reviewed the documents and noted that several raised concerns. These documents -- all memoranda written by North -- appeared to indicate that North had been fund-raising for and providing military assistance to the contras, in apparent violation of the Boland Amendment.⁴⁸ When McFarlane returned from California at the end of August 1985, Thompson presented him with the entire stack of documents and pointed out the existence of the "problem documents."⁴⁹

⁴⁸ Thompson, Grand Jury, 5/13/87, pp. 68-71; Select Committees Deposition, 7/24/87, pp. 3-7.

⁴⁹ McFarlane, Grand Jury, 4/29/87, pp. 108-10; Select Committees Testimony, 5/11/87, p. 185, and 5/12/87, p. 69.

McFarlane retained the documents while he worked on the responses to the congressional inquiries. (McFarlane, Grand Jury, 4/29/87, pp. 109-10; Thompson, Grand Jury, 5/13/87, p. 71; Thompson, Select Committees Deposition, 4/28/87, p. 24.) At the end of each day, however, McFarlane gave the documents back to Thompson for Thompson to store in the safe in his office. (McFarlane, Grand Jury, 4/29/87, p. 110; McFarlane, Select Committees Testimony, 5/11/87, p. 190, and 5/12/87, p. 145; Thompson, FBI 302, 4/1/87, p. 7.) For more information on the problem documents, see McFarlane chapter.

In his first congressional deposition, Thompson did not mention his own review of the documents or that he pointed out the problem documents to McFarlane. In fact, Thompson said he could not recall the documents but was sure nothing in the documents caused him to conclude that North's contacts with the contras were "excessive."⁵⁰ In Thompson's next congressional deposition, when asked whether he reviewed the documents before he gave them to McFarlane, he replied, "I can't recall that I did."⁵¹ When asked whether he discussed the contents of the memoranda with McFarlane, Thompson answered, "Not really."⁵²

⁵⁰ Thompson, Select Committees Deposition, 3/9/87, pp. 36-40.

⁵¹ Ibid., 4/28/87, p. 23.

⁵² Ibid., p. 22.

Before the Grand Jury, Thompson admitted he reviewed the documents before giving them to McFarlane, but Thompson downplayed the significance of that review, claiming it was only to determine relevance and whether the documents were covered by executive privilege. Thompson was then asked:

Q. Did you direct his [McFarlane's] attention to any documents in particular . . . ?

A. Well, I think I had -- as I recall we had the documents according to systems and the most sensitive documents are in system 4 which is where they should be. I think I told him that the ones in system 4 contained information that needed to be looked into.

Q. Did you explain what you meant by needed to be looked into?

A. I don't recall that I did.⁵³

⁵³ Thompson, Grand Jury, 5/13/87, pp. 68-70.

On the significance of his review, Thompson said:

I did not spend a lot of time then -- my role at that time, I was not acting as a counsel who had been asked to do an investigation. I was forwarding these papers to the national security advisor who was tasked with responding to Congress. . . . I was helping him get ready to respond.⁵⁴

⁵⁴ Ibid., p. 169.

After receiving the "problem" documents from Thompson, McFarlane reviewed them and then met with North.⁵⁵ According to Thompson, before North and McFarlane met, Thompson asked North whether he was raising funds for the contras or providing military assistance to them. North, according to Thompson, told him he was not.⁵⁶

⁵⁵ McFarlane said he asked North to alter the memoranda to reflect his activities more accurately. Subsequently, McFarlane asked Thompson whether it would be proper to alter the memoranda, and Thompson informed McFarlane that it would not be unless the originals were preserved and the changes in the memoranda marked. See McFarlane chapter.

Although Thompson's account of his exchange with McFarlane about altering documents is essentially consistent with McFarlane's, Thompson described it as a "very generic" discussion "about document creation, classification and control." (Thompson, Select Committees Deposition, 4/28/87, p. 30). Thompson called it "the typical conversation between the head of the agency and counsel of an agency, as to when a document achieves permanent status, when it can be modified, when it can be changed to reflect differences of facts or views." (Thompson, Select Committees Deposition, 7/24/87, pp. 7-8.)

⁵⁶ Thompson, Select Committees Depositions, 3/9/87, pp. 37-38, 4/28/87, pp. 24-25, and 7/24/87, pp. 5-6; Thompson, Grand Jury, 5/13/87, pp. 72-73; Thompson, FBI 302s, 4/1/87, p. 7, 4/27/87, p. 6, and 1/3/91, p. 8. North remembers no such meeting. (North, North Trial Testimony, 4/11/89, pp. 7406-08). McFarlane did not recall hearing about a meeting either. (McFarlane, FBI 302, 9/13/90, p. 11.)

McFarlane responded to Rep. Lee Hamilton, chairman of the House Permanent Select Committee on Intelligence (HPSCI), on September 5, 1985, stating that, based on his review of relevant NSC documents, no one on the NSC staff violated the letter or spirit of the law, and they did not solicit funds for contra military or paramilitary activities.⁵⁷ One week later, McFarlane made the same assertions in a letter to Rep. Michael Barnes, chairman of the House Foreign Affairs Subcommittee on Western Hemisphere Affairs.⁵⁸

⁵⁷ Letter from McFarlane to Hamilton, 9/5/85, AKW 001528-29.

⁵⁸ Letter from McFarlane to Barnes, 9/12/85, AKW 001512-14.

The letters that McFarlane wrote Barnes and Hamilton were false.⁵⁹ There is little evidence, however, that Thompson played any significant role in their drafting. The evidence on the question of Thompson's knowledge of the falsity of the letters is mixed. McFarlane believed that, because Thompson reviewed almost all of the paperwork that flowed through McFarlane's office, Thompson was aware that the letters were false.⁶⁰ Neither McFarlane nor North, however, could recall specifically discussing with Thompson the true extent of North's activities on behalf of the contras in 1985.⁶¹

⁵⁹ In March 1988, McFarlane admitted that he had unlawfully withheld information from Congress and pleaded guilty to four misdemeanor charges, two of which were based on these letters.

⁶⁰ McFarlane, FBI 302, 9/13/90, p. 14.

⁶¹ North, Grand Jury, 6/6/90, pp. 14, 48; McFarlane, FBI 302, 9/13/90, pp. 7-9.

Thompson claimed that he did not know the letters were false. According to Thompson, before the NSC received the congressional inquiries, he had no knowledge of the extent of North's activities.⁶² Although seeing the "problem documents" in August 1985 raised concerns in his mind about North's activities, Thompson said that he believed North when he denied raising funds for the contras or providing military assistance to them.⁶³

⁶² Thompson, Grand Jury, 5/13/87, pp. 44-45; Thompson, Select Committees Deposition, 7/24/87, pp. 2-3.

⁶³ Thompson, FBI 302, 1/3/91, p. 8.

While the NSC staff was formulating a response to the congressional inquiries, the President's Intelligence Oversight Board (PIOB) was conducting its own inquiry into North's activities. PIOB Counsel Bretton G. Sciaroni spoke to North and Thompson, who each denied that North was providing military assistance to the contras or raising funds for them.⁶⁴ In addition, Thompson showed Sciaroni a stack of NSC documents, which Sciaroni reviewed in Thompson's office.⁶⁵ According to Sciaroni, Thompson told him that he was being shown all of the relevant documents that the NSC had retrieved in its file search and that the NSC had shown the same documents to the congressional committees.⁶⁶ Several of the problem documents were not in the stack of documents that Thompson showed to Sciaroni, however.⁶⁷

⁶⁴ Sciaroni, Select Committees Testimony, 6/8/87, pp. 4, 17-19, 26-27, 124-126; Sciaroni, Grand Jury, 6/1/87, pp. 14-18, 22-25; Sciaroni, FBI 302s, 11/4/87, pp. 1-2, and 3/19/87, p. 2.

Thompson acknowledged that he met with Sciaroni. (Thompson, Select Committees Depositions, 4/28/87, p. 36-38, and 7/24/87, p. 13.) Thompson did not remember, however, speaking to Sciaroni specifically about North's activities in support of the contras. (Thompson, Select Committee Depositions, 4/28/87, pp. 37-38, and 7/24/87, pp. 15-16.) In the Grand Jury Thompson had no specific recollection of meeting with Sciaroni. (Thompson, Grand Jury, 5/20/87, pp. 10-11.)

⁶⁵ Sciaroni, Select Committees Testimony, 6/8/87, p. 19-20; Sciaroni, Grand Jury, 6/1/87, pp. 18-19; Sciaroni, FBI 302, 3/19/87, p. 2.

⁶⁶ Sciaroni, Select Committees Testimony, 6/8/87, pp. 4, 19-20, 43; Sciaroni, Grand Jury, 6/1/87, pp. 18-19, 55-57; Sciaroni, FBI 302, 3/19/87, p. 2. Thompson could not recall whether he showed Sciaroni the documents gathered in response to the congressional inquiries. (Thompson, Select Committees Deposition, 4/28/87, pp. 38-39; Thompson, FBI 302, 5/6/87, p. 4.)

⁶⁷ Sciaroni, Select Committees Testimony, 6/8/87, pp. 20-25, 43-44; Sciaroni, Grand Jury, 6/1/87, pp. 20-22; Sciaroni, FBI 302, 11/4/87, pp. 1-2.

In 1986, Congress again sought White House responses to press reports of secret contra-support activities being run by North. In response to a House resolution of inquiry, Poindexter falsely denied the allegations. In letters to the chairmen of the House Permanent Select Committee on Intelligence (HPSCI), Foreign Affairs Committee and Armed Services Committee, he cited McFarlane's false letters of 1985, reasserting that the press allegations were wrong. Poindexter was convicted in 1990 for obstructing Congress in connection with these letters.⁶⁸

⁶⁸ This conviction was overturned on appeal. See Poindexter chapter.

The extent of Thompson's involvement in the drafting of Poindexter's false letters is unclear. Poindexter denied that Thompson had any substantive role in drafting them.⁶⁹ After Poindexter received the inquiries, however, he did speak to Thompson about McFarlane's responses to Congress the previous year.⁷⁰ Moreover, Thompson was the NSC point of contact with White House Counsel Peter Wallison in formulating a response: Thompson sent Wallison a draft of Poindexter's letter,

received Wallison's response, made suggestions within the NSC on how best to incorporate Wallison's suggestions, and (along with Reger and Wallison) concurred when NSC Legislative Affairs Director Ronald Sable sent the final draft to Poindexter for his signature.⁷¹

69 Poindexter, Grand Jury, 6/27/90, pp. 114-19.

70 Poindexter, Select Committees Deposition, 5/2/87, pp. 192-193.

71 Memorandum from Thompson to Wallison, 7/15/86, ALU 005415-18; Memorandum from Wallison to Thompson, 7/17/86, ALU 005411-14; Note from Thompson to Sable and Reger, 7/18/86, AKW 038265-67; Memorandum from Sable to Poindexter, 7/21/86, AKW 042397-98.

Thompson testified that he was aware of the fact that the letter was being sent and that, although he could not "specifically recall" seeing the letter at the time, "I think I saw it." (Thompson, Grand Jury, 6/1/87, p. 6.) Sable initially speculated that Thompson drafted Poindexter's letter. (Sable, FBI 302, 1/8/88, p. 11.) Subsequently, Sable stated that he believed that North drafted the letter but that Thompson provided input into the response. (Sable, Grand Jury, 8/10/90, pp. 34, 38-40, 43, 45-46, 80; Sable, FBI 302, 8/6/90, pp. 3-4.

Soon after Poindexter sent the letters to Congress, Thompson appeared before HPSCI with Sable and briefed the committee. According to Sable, the subject was North's activities on behalf of the contras, and Thompson answered most of the questions consistent with Poindexter's earlier written denials.⁷² Thompson's memory of the briefing, however, was quite different. According to Thompson, the briefing:

72 Sable, Grand Jury, 8/10/90, pp. 65-68; Sable, 302, 8/6/90, p. 5.

had nothing to do with North. It had to do with the alleged disinformation campaign that was directed against [Libya], appearing in the press at the time and Chairman Hamilton wanted to find out some background as to how the thing came about so I went up and explained it to them.⁷³

73 Thompson, Select Committees Deposition, 3/9/87, p. 51. Sable had no memory of the subject of disinformation being raised during the briefing. (Sable, FBI 302, 10/9/90, p. 2.)

OIC's attempts to obtain independent evidence from HPSCI about the subject matter of this briefing were unsuccessful.

Independent Counsel's Decision Not to Prosecute Thompson

After Independent Counsel obtained felony convictions of both North and Poindexter, a Grand Jury in 1990 and early 1991 heard extensive evidence regarding Thompson in the areas previously described.

Independent Counsel concluded that the Grand Jury's investigation did not produce sufficient evidence to charge Thompson for involvement in the efforts of McFarlane and Poindexter to obstruct congressional inquiries into North's contra-aid activities. Although there was some evidence that Thompson helped draft letters to Congress that he knew to be false, the evidence did not appear to be sufficient to establish guilt beyond a reasonable doubt on a charge of aiding and abetting or of conspiring to make false statements to Congress. Similarly, although Thompson flagged for Poindexter the December 1985 Finding as a potential problem, there was only circumstantial evidence that Thompson acted with the intent of facilitating its destruction.⁷⁴

74 In addition, Independent Counsel concluded that there was not sufficient evidence to prove beyond a reasonable doubt that Thompson knowingly made false statements to the President's Intelligence Oversight Board in August-September 1985.

The evidence that Thompson had obstructed justice, committed perjury, and made false statements before Congress and the Grand Jury was much stronger. Thompson's assertions that he had no knowledge of the December 1985 Finding and no knowledge of the destruction of documents seriously obstructed Independent Counsel's investigation. Two of the three people present when the Finding was destroyed -- North and Poindexter -- had valid Fifth Amendment claims against testifying before the Grand Jury in the spring of 1987. Therefore, only Thompson was available to describe the destruction of the Finding. He did not. As a result, Independent Counsel did not learn of Poindexter's destruction of the Finding until North testified about it at his own trial in April 1989.⁷⁵

⁷⁵ Poindexter told Congress in the summer of 1987 that he destroyed the December 1985 Finding, but the testimony was immunized and could not be used against him directly or indirectly in a criminal prosecution. See Poindexter chapter.

Because of the strength of the evidence and the seriousness of the likely charges, Independent Counsel considered an indictment of Thompson in late 1990. In January 1991, Thompson agreed to a voluntary interview but provided little new information.⁷⁶ In April 1991, Thompson was informed through counsel that he was a target of the Grand Jury's investigation into perjury, obstruction of justice, and false statements; he was invited to appear before the Grand Jury but declined.

⁷⁶ Thompson, FBI 302, 1/3/91, p. 7.

Independent Counsel did not recommend that the Grand Jury return an indictment of Thompson. This decision was based on the long passage of time since the events in question, Thompson's peripheral role in the Iran/contra matter, and the simultaneous development of strong cases against more centrally involved Government officials.