



Chapter 24

The Investigation of State Department Officials: Shultz, Hill and Platt

From the Reagan Administration's first suggestion in June 1985 that the United States should transfer arms to Iran through the final decision in December 1986 that arms shipments would cease, Department of State officials opposed these dealings for reasons of policy and status. Department officials argued that trading arms for hostages would only increase the value and therefore the number of hostages. They also believed that the Department, not the National Security Council staff or the Central Intelligence Agency, should establish counterterrorism policy, including dealings with Iran and efforts to free hostages in Lebanon.

During 1985 and 1986, senior State Department officials monitored the U.S. contacts with Iranians quite closely, with increasing consternation. At several points, department officials attempted to stop the arms-for-hostages initiative. At least twice, they attempted to circumvent it by opening other channels to Iran. After the arms-for-hostages story broke in November 1986, the department and Secretary of State George P. Shultz eventually used the revelations to regain control over counterterrorism policy. Following a strenuous bureaucratic struggle, Shultz persuaded President Reagan to prohibit further arms transfers to Iran and to announce that the Department of State would take the lead on such counterterrorism and diplomatic matters in the future.

During the congressional investigations in December 1986 and throughout 1987, Shultz testified -- to great effect -- about State Department efforts to oppose arms shipments to Iran and State's limited contemporaneous knowledge of the activities in this regard of the NSC staff. In contrast to other agencies, State Department officials appeared open and cooperative; they were the emerging heroes of the Iran/contra story and seemed to have nothing to hide.

In 1990 and 1991, however, Independent Counsel received new evidence, in the form of handwritten notes that had not been provided in response to previous document requests, suggesting for the first time that central aspects of Shultz's testimony were incorrect. Based on the notes, it appeared that Shultz and other senior Department of State officials had known significantly more about arms shipments to Iran than Shultz's testimony reflected. As a result of this new evidence, Independent Counsel conducted an investigation into whether Shultz or other department officials deliberately misled or withheld information from Iran/contra investigators.

Independent Counsel concluded that Shultz's testimony was incorrect, if not false, in significant respects and misleading, if literally true, in others, and that information had been withheld from investigators by Shultz's executive assistant, M. Charles Hill. Nevertheless, for reasons explained in this chapter, the investigation did not result in criminal charges.

Department of State Organization and Arms Shipments to Iran

During 1985 and 1986, Shultz was the secretary of state, John C. Whitehead was deputy secretary of state and Michael H. Armacost was under secretary of state for political affairs. These senior ranking officials met daily to keep each other informed of the department's activities and relevant domestic and international events.¹

¹ Armacost, Grand Jury, 3/13/92, p. 6.

Shultz and Whitehead were political appointees. Armacost was a career foreign service officer. During 1985 and 1986, two other senior foreign service officers occupied posts of importance in the department: Executive Secretary Nicholas Platt, and Shultz's executive assistant, M. Charles Hill.

Formally, the executive secretary was responsible for making sure that the secretary of state was adequately supported by the department bureaucracy: that matters were appropriately staffed, that deadlines were met and that appropriate guidance was given up and down the bureaucratic chain of command.² To fulfill that role, Platt attended and made a detailed handwritten record during most of Shultz's meetings within the department.³ One of Platt's two deputies accompanied Shultz on all trips outside Washington, D.C., and reported back to Platt, who made notes of those reports. In addition, Platt had a close working relationship with Hill, who regularly reported to Platt what had occurred in Shultz's meetings outside the department; Platt also made notes of these reports. Platt also took notes in other meetings he attended and of significant information he acquired throughout the day. Platt created over 4,500 pages of daily handwritten notes from January 2, 1985, through February 12, 1987.⁴

2 Ibid.; Platt, Senate Foreign Relations Committee Testimony, 7/24/87, p. 35 (hearing on nomination to be United States Ambassador to the Philippines); Platt, FBI 302, 4/5/91, pp. 1-2.

3 E.g. Platt, FBI 302, 7/14/87, p. 1; Ibid., 4/5/91, p. 2; Shultz, OIC Interview, 2/12/92, p. 65.

4 Platt Notes, 1/2/85-2/12/87, ALW 0034815-9618.

Hill had served as the department's executive secretary prior to Platt. Thereafter, as Shultz's executive assistant from summer 1984 until the end of the Reagan Administration in January 1989, Hill's formal role was to write speeches and keep a record of Shultz's activities. In practice, Hill was one of Shultz's closest advisers and his principal gatekeeper. Hill regularly traveled with Shultz and, with few exceptions, attended and kept a handwritten record of Shultz's meetings in the department. In addition, Shultz regularly reported to Hill significant information he received and meetings he attended outside of Hill's presence, both to get Hill's reaction to the information and to permit Hill to record it in his notebooks.⁵ Shultz, who characterized Hill's notes as a "remorselessly precise record and a vivid picture" after using them to write his recent memoirs,⁶ consistently stated that Hill's notes were accurate.⁷ During the period January 1984 through December 1987, Hill filled more than 50 stenographer's notebooks with detailed, often verbatim, daily notes of Shultz's meetings, statements and activities.

5 Shultz, OIC Interview, 2/12/92, pp. 4-5, 142-45.

6 George P. Shultz, *Turmoil and Triumph* (Chas. Scribner's Sons 1993), p. xiii.

7 E.g., Shultz, OIC Interview, 12/11/90, p. 6 (describing Hill's notebooks as "a useful managerial tool" to Shultz as Secretary of State).

The two State Department components with primary responsibility for the Middle East and counterterrorism were the Bureau of Near Eastern and Asian Affairs (NEA) and the Office of Counterterrorism and Emergency Planning (S/CT). Throughout 1985 and 1986, Assistant Secretary of State Richard W. Murphy headed NEA and Arnold L. Raphel served as his principal deputy. Ambassador Robert B. Oakley headed the counterterrorism office during 1985 through September 1986; his principal deputy was Parker Borg.

These nine senior officials -- Shultz, Whitehead, Armacost, Platt, Hill, Murphy, Raphel, Oakley and Borg -- together with a very few assistants, appear to have been the only State Department officials with significant contemporaneous knowledge of U.S. and Israeli contacts with Iranians and arms shipments to Iran during 1985 and 1986. Among that group, Armacost, Raphel and Oakley constituted what one participant called a "floating directorate" that monitored this activity,

principally through contacts outside the department, and reported any significant developments to Shultz, often through Platt and Hill.⁸

⁸ Ross, FBI 302, 3/11/92, p. 4.

Department of State Evidence of Iran Arms Shipments: The Notes

The best evidence of Department of State knowledge of U.S. dealings with Iran comes from Hill and Platt's notes. It was their job to bring important information to the attention of Shultz and to communicate to others his guidance and questions. Both Hill and Platt took minute-by-minute notes that document this exchange of information in remarkably detailed fashion.

Notes taken by three other department officials supplement Platt and Hill's notes. Platt's deputy Kenneth M. Quinn took detailed notes of information he received from or passed on to Platt. Christopher W.S. Ross, the principal deputy to Armacost, took detailed notes of information he received from or passed to Armacost. Arnold Raphael took less detailed, but still valuable, notes of significant information he received.

The notes of these five officials -- Hill, Platt, Quinn, Ross and Raphael -- were particularly important to Independent Counsel's investigation because State Department officials committed so little about the Iran arms transfers to formal documents.⁹ With the exception of a few cables and memoranda, almost everything significant that Independent Counsel was able to learn about the Department of State's role in the Iran initiative came from these handwritten notes.

⁹ Although Ross was a prolific notetaker and produced a typed transcript of his relevant handwritten notes to Iran/contra investigators during 1987, he was unable to locate notes dated earlier than November 18, 1985. (Ross, FBI 302, 3/11/92, p. 1; DAMASCUS 02366, 3/30/92, ALW 0054999.) During 1992, the OIC reviewed Ross's collection of handwritten notes and confirmed the completeness of his December 1986 production of transcribed relevant entries.

The Department of State's Production of Evidence During 1986 and 1987

On November 28, 1986, Attorney General Edwin Meese III wrote a letter to Shultz requesting that department information ``be segregated and held for review by and transmission to the Federal Bureau of Investigation (FBI) upon its request." ¹⁰ Meese's request applied to

¹⁰ Letter from Meese to Shultz, 11/28/86, ALV 004590-91.

[a]ny and all material of any kind, type, or description, including, but not limited to, all memoranda, briefing materials, minutes, handwritten notes, diaries, telephone logs, . . . files and other documents of the . . . State Department, . . . from 1 January 1985 to the present, concerning the following:

1. All arms activities involving Iran;
2. All hostage negotiations or similar communications involving arms as an inducement;
3. All financial aid activities involving the Nicaraguan resistance movement which are related to Iran or Israel; [and]
4. All activities of Robert C. McFarlane, . . . Lt. Col. Oliver L. North, Vice Admiral John M. Poindexter . . . relating to 1-3 above.¹¹

¹¹ Ibid.

In response to the Meese request, the Department of State's Legal Adviser Abraham D. Sofaer, and the Assistant Secretary of State for Administration Donald J. Bouchard sent a memorandum the next

day to the senior official in each department component that potentially would possess relevant information, including Hill and Platt.¹² The Sofaer/Bouchard memorandum, which the Department of Justice had reviewed and approved before it was issued at State,¹³ distributed a copy of Meese's letter to each of these persons, reported that the President had ordered the Department of Justice investigation and stated that "[t]he Secretary has pledged full Department cooperation. . . ." The memorandum stated that, with regard to the phrase "All arms activities involving Iran" in the Meese letter, the department was interpreting this request,

12 Memorandum from Sofaer and Bouchard to Platt (S/S), Grossman (D), Ross (P), Boyce (T), Abrams (ARA), Murphy (NEA), Holmes (PM), Abramowitz (INR), Bremer (S/CT) and Lamb (DS), cc: Hill (S), Subject: Search for Documents, 11/29/86, ALV 004587-89.

13 Sofaer, OIC Interview, 4/6/92, pp. 4, 16-17.

[b]ased upon consultation with the FBI, . . . to encompass any materials concerning allegations or evidence of U.S. or U.S.-authorized arms shipments to Iran, requests by Iran for arms or alleged offers by the U.S., Israel, or other parties allegedly acting on behalf of the U.S. to supply arms.¹⁴

14 Memorandum from Sofaer and Bouchard to Platt (S/S), et al., Subject: Search for Documents, 11/29/86, ALV 004587.

The memorandum also instructed that, with regard to named individuals such as McFarlane, North and Poindexter, "[y]ou should . . . provide information of any alleged activities [by them]. . . ." ¹⁵ The memorandum, which stated twice that the Meese request covered handwritten notes,¹⁶ directed those addressed to transmit copies of responsive documents to the department's information coordinator by December 3, 1986, and to hold the original documents in their offices pending the conclusion of the investigation.¹⁷

15 Ibid., ALV 004588 (emphasis added).

16 Ibid. ("Please note that the request defines documents which are subject to production most broadly to include handwritten notes, diaries, and telephone logs of Department officials. . . . It is not necessary to retrieve documents that were directed to the central information system. . . . However, any . . . personal notes . . . must be produced").

17 Ibid., ALV 004588-89. The memorandum also directed that, "[i]f you have any question as to whether a particular document is responsive, you should forward it. L [Office of the Legal Adviser] will make the final determination of responsiveness." (Ibid., ALV 004589.)

On December 3, Shultz took note of the document request in a letter to Meese:

Dear Ed:

Your letter of November 28 requested that this Department segregate and hold for review by and transmission to the FBI various documents of potential relevance to your ongoing investigation. I wish to assure you personally of this Department's full cooperation as you pursue this highly important task.

In response to your request, we immediately ordered production of all documents requested. . . . Our goal is to have the requested materials in the hands of the FBI by the end of this week.

The Legal Adviser and his staff have been in close touch with the FBI investigators and will continue to provide them full cooperation and assistance as the investigation proceeds.

Sincerely yours,

18 Letter from Shultz to Meese, 12/3/86, ALV 011058.

Hill -- who had reviewed his notebooks after the revelations of early November 1986 and located numerous notes regarding Iran, hostages, McFarlane, North and possible arms shipments 19 -- began to review his notebooks again after receiving the Meese request and the Sofaer/Bouchard memorandum.²⁰ On December 2, 1986, Hill noted, in red pen, that "CH [Charles Hill] wkg [working] full-time on notebooks for FBI re Polecat," ²¹ a term used by Hill to describe arms-for-hostages deals with Iran.²² Hill also received a report that afternoon from Sofaer, who had met with the FBI to discuss the sensitivity of Hill's notes and how their production could be avoided:

19 E.g. Hill, OIC Interview, 2/21/92, pp. 18-19, 21; accord Hill Note, 11/8/86, ANS 0001743-44 ("CH bfs (S) [Charles Hill briefs Shultz] on all details of Polecat. . . . Arf [Raphel] knows more than this chronology[.] CH -- . . . does chronology of what we told since May '85") (emphasis in original); Hill Note, 11/9/86, ANS0001748. ("(S) = CH [Shultz meeting with Charles Hill] 0915 at [Shultz's] house (upstairs study)[.] CH -- (hands over 3 papers -- Chron [Chronology] of what we knew since May '85, . . .)") (emphasis in original); Hill Note, 11/10/86, ANS 0001756 ("from CH [Charles Hill] notebooks").

²⁰ On December 1, 1986, Hill made a note, and told Shultz, that the topic of Brunei's \$10 million contribution to the contras was "not w/I [within] the purview of what they asked for in this investigation." (Hill Note, 12/1/86, ANS 0001941, emphasis in original). Hill made another note to the same effect the next day, and again passed the information to Shultz. (Hill Note, 12/2/86, ANS 001946.) Hill's notes suggest that he read the Sofaer/Bouchard memorandum closely.

²¹ Hill Note, 12/2/86, ANS 0001946.

²² Both Platt and Hill were evasive about the origin and meaning of the term "Polecat," which appears throughout their notes as a reference to arms-for-hostages proposals and developments. (See Hill, Grand Jury, 7/10/92 pp. 39-41, "That is what Platt and I began to call this whole thing because we associated it with Oliver North. I believe Platt made this name up. North equaled Pole . . . and Polecat was something that kind of smelled. . . . It was whatever Oliver North and McFarlane were up to."); cf. Shultz, OIC Interview, 2/12/92, p. 46 ("That [Polecat] was Charlie Hill's characterization, I think."). Platt's principal deputies from 1985 each confirmed that "Polecat" was a derogatory term for Oliver North personally (North -- North Pole -- Polecat) and referred to the arms-for-hostages aspects of North's counterterrorism activities. (Quinn, FBI 302, 12/4/91, pp. 2-3; Brunson McKinley, FBI 302, 12/13/91, p. 3.) For a time in late 1985, Hill replaced "Polecat" in his notes with the less pejorative term "Night Owl."

R/O [Readout] Abe [Sofaer] = [meeting with] CH [Charles Hill] . . . Abe mtg w [meeting with] FBI.

* * *

On Polecat notes, I [Sofaer] sd [said] parts sensitive, + probl [problem] of coherence in context. (S) [Shultz] wd [would] prefer to meet w [with] Dir. Webs [FBI Director William Webster] + go thru story w him orally. They accepted that + will let us know tomorrow what Dir. [Director Webster] says.²³

²³ Hill Note, 12/2/86, ANS 001946. Hill's note indicates that he passed this information to Shultz. Ibid. (symbol of arrow pointing to the right with a star at the end of the arrow and a vertical line through the shaft of the arrow); accord Hill, OIC Interview, 7/9/92, pp. 8-9 (explaining meaning of the symbol).

Later that afternoon, Hill wrote, underlined and circled: ``g008CH [Charles Hill] Reemerges from Notebook research on Polecat." 24

24 Hill Note, 12/2/86, ANS 0001947.

Hill continued his notebook review the next day. At the top of his first page of December 3 notes, Hill wrote and circled, ``CH [Charles Hill] works on Notebook Research." 25 Hill also received Sofaer's report that the FBI had determined that one agent would need to see Hill's notes:

25 Ibid., 12/3/86, ANS 0001953.

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.....g008CH Notes

.....g008Abe = CH1220.....Dir Webst [FBI Director Webster] doesnt want to get personally involved. One guy wd [would] go over docs [documents] w CH [Charles Hill]. Tell you what he needs + leave the rest.26 -----

Hill immediately reported this proposed arrangement to Shultz, who replied, ``ok, good." 27

26 Ibid., ANS 0001955.

27 Ibid.

On Thursday, December 4, 1986, Hill provided the notes he had selected from his review to three FBI special agents who met at State with him and Michael G. Kozak, the principal deputy legal adviser.²⁸ Hill told the agents that he had searched his handwritten notes and other records that were available to him in the secretary's office and located a set of documents pertinent to the Iran/contra arms controversy.²⁹ Hill provided the agents a chronological set of 65 photocopied pages.³⁰ The documents Hill provided consisted of excerpted entries (some of which also were partially redacted) from 32 pages of his own notebooks; three excerpted notes by Platt dated November 19, 1985; and cables and other Department of State documents.³¹ Hill did not state to the FBI agents that he had more relevant material, that he had not had time to review all of his notebooks, or that this production was the result of a partial review of the notebooks. FBI Special Agent Danny O. Coulson understood that Hill was providing everything he had that was relevant to Iran/contra within the parameters of Attorney General Meese's November 28, 1986, letter to Shultz.³²

28 Hill, FBI 302 (Special Agent Beane), 12/4/86.

29 Ibid., p. 1.

30 See Ibid. (attached photocopies). Hill wrote the date of each incompletely dated or undated document on the upper right-hand corner of each photocopied page.

31 Ibid., pp. 1-5 (itemizing the documents produced).

32 Memorandum from FBI Special Agent Michael S. Foster re: Coulson/OIC Meeting, 3/5/92, pp. 1-2, 027774.

Pursuant to Sofaer's discussion with FBI Director William H. Webster, Hill also met privately on December 4, 1986, with Coulson, who was the senior FBI agent assigned to the Iran/contra investigation.³³ During this interview, Hill said that he possessed notes he had taken of his conversations with Shultz regarding arms sales to Iran. Hill stressed that these notes, which

represented confidential conversations between Cabinet officers and the President, were extremely sensitive and asked Coulson to disseminate the notes only to individuals with an absolute ``need to know." Hill then disclosed that these notes related in part to the December 7, 1985, meeting of President Reagan, Defense Secretary Caspar W. Weinberger, Shultz, White House Chief of Staff Donald T. Regan, former National Security Adviser Robert C. McFarlane, National Security Adviser John M. Poindexter and CIA Deputy Director John N. McMahon regarding selling arms to Iran.³⁴ After walking Coulson through the documents, which contained explosive statements attributed to President Reagan,³⁵ Hill provided copies of five photocopied pages to the FBI: one page of typed talking points that had been prepared for Shultz's use at the December 7, 1985, meeting; excerpted entries from three pages of Hill's December 7 notes; and one page with two excerpted notes by Platt dated December 7.³⁶ In his own notes, Hill subsequently made this account of the interview:

33 Hill, FBI 302 (Special Agent Coulson), 12/4/86.

34 Ibid., p. 1.

35 Coulson's interview report states that,

[a]t the December 7, 1985 meeting, Secretary of Defense Weinberger, Secretary of State Shultz and Donald Regan opposed sale of arms to Iran as being illegal. . . . During this meeting President Reagan indicated that the American people would not understand if four hostages died because ``I wouldn't break the law."

During the course of this meeting the President indicated that ``they can impeach me if they want, visiting days are Wednesday." Weinberger indicated ``you will not be alone."

(Ibid., pp. 1-2.)

36 Ibid. (attachments); ALW 0059585-88 (``original" photocopied handwritten Hill and Platt notes provided by Hill to FBI on December 4, 1986; each page is dated by Hill in red pen in upper right hand corner).

g008CH [Charles Hill] g008= [meeting with] g008FBI

1030-1300Reads g008Polecat Record

-- Parts on P [Presidential] conversations (Dec 6, 7, 1985) read to sr. [senior] agent only, who will discuss w the Director.

-- Asked for nothing to take away.

-- astounded at the detail of fact. Much that was new to them.

-- said, personally, ``g008if only the WH [White House] had taken the (S) [Secretary's] advice." 37

37 Hill Note, 12/4/86, ANS 0001966.

Hill later received a report of the reactions that the FBI agents had expressed to Kozak after their meeting with Hill:

y [you] impressed the hell out of them . . . one FBI sd [said] to Kozak[:] ``I deal w [with] murderers, rapists, terrorists + the scum of the earth and I'm a pretty thick skinned guy -- but when I hear what those guys in the WH [White House] did to the Sec of State -- as a citizen -- I'm furious."

(Ibid., 12/4/86, ANS 0001968.)

Two weeks later, the senior FBI agent met again with Hill to discuss these documents. Hill clarified that his notes resulting from the December 7, 1985, White House meeting were based on a general conversation and then a more detailed meeting with Shultz; Hill identified Platt as the author of the other notes Hill had produced on December 4; and Hill stated that Platt's note marked "from Rich" reflects information that Weinberger gave to Assistant Secretary of Defense Richard Armitage, who in turn reported Weinberger's comments to Platt. (Hill, FBI 302, 12/18/86; accord, Hill Note, 12/18/87, ANS 0002073: "1415 -- g008Colson [sic] = [meeting with] CH [Charles Hill] (Just to ask CH to explain relationship betw [between] the various R/O's [read outs] of the Dec 7 '85 mtg + the tp [talking points] prepared for it.[])".)

Later on the afternoon of December 4, 1986, Sofaer told Hill that the FBI wanted to take possession of his original notes regarding the Brunei solicitation,³⁸ but added that Kozak would try to make alternative arrangements:

³⁸ At this time, there was substantial concern among Department of State officials such as Abrams, Sofaer and Hill (who knew that Brunei had contributed \$10 million to the contras but that North had claimed it never arrived) that North had absconded with the Brunei money.

-- Webster wants orig [original] notes + wd [would] lock up for indep. counsel. Kozak will work for giving copies + CH [Charles Hill] showing originals on request.³⁹

³⁹ Hill Note, 12/4/86, ANS 0001968. Hill later told Shultz that "Webster wants orig [original] pages of notebooks. -- but that wd [would] destroy 'best evidence' on g008other issues (2 sided pages) in order to get 'best evidence' for g008this [Brunei] issue." (Hill Note, 12/4/86, ANS 001970, emphasis in original.) Hill, who graduated from law school but never practiced, recalled the "best evidence rule" from "a case in [his law school] Evidence course." (Ibid.)

Hill also wrote some reflections that day on the process of reviewing his notebooks in response to the Meese request and the Sofaer/Bouchard memorandum:

-- g008Polecat

Reviewing the notebooks for the 4th time

Like rereading g008Paradise Lost; each time something new seems to appear -- not new evidence, but new interpretations impress themselves on you. The impression now shining through is that the key figures were . . . [Michael Ledeen and North].

So 2 activists -- one policy driven, one operationally driven [--] play on the flaws of 2 leaders: -- McF's [McFarlane's] megalomania -- P's [President Reagan's] humanitarian spirit ⁴⁰

⁴⁰ Hill Note, 12/4/86, ANS 0001970-71.

In April 1987, the OIC transmitted its omnibus document request to the Department of State. This request, which covered the period January 1, 1983, to the present, specifically called for the production of all "notes" prepared or maintained by Hill and Platt on subjects including the sale, shipment or transfer of military arms to Iran.⁴¹ On May 28, 1987, the Office of the Legal Adviser produced various photocopied documents in response to the OIC request. One set of documents, which includes a number of excerpted Hill notebook entries, was a slightly expanded version of the chronological set of document copies that Hill had provided to the FBI special agents on December 4, 1986: It included copies of excerpts from 34 pages of his own notebooks and five excerpted notes by Platt.⁴² A second set of documents consists of excerpted Platt notes, including 18 photocopied

pages of excerpted notes regarding Iran that Platt had provided to Sofaer's office in December 1986.⁴³

41 Letter from Geoffrey S. Stewart to Michael Kozak, Deputy Legal Adviser, 4/23/87.

42 ALV 001577-1680.

43 ALV 002710-40.

In early 1988, the Department of State also provided to the OIC a copy of the set of Hill's November and December 1986 "post-revelation" notes, which had been provided to the Senate Select Iran/contra Committee in 1987.⁴⁴

44 Hill Notes, 11/3/86-12/31/86, ALW 021109-430 (set of photocopied, redacted pages selected from Hill's notebooks that was provided to the Senate Select Committee by the Department of State in 1987; produced by State to the OIC on January 20, 1988).

OIC Acquires Additional Department of State Evidence During 1990 and 1991

In 1990, the OIC requested and received Hill's permission to review his original notebooks covering the period 1983 through the end of the Reagan Administration in January 1989, and to photocopy all entries relevant to the continuing Iran/contra investigation.⁴⁵ At the time, Independent Counsel's investigation was focused on support for the Nicaraguan contras and the activities and statements of sub-Cabinet officials such as Elliott Abrams, Duane R. Clarridge, Alan D. Fiers, Jr. and Donald P. Gregg. Neither Shultz nor Hill was a subject of the OIC's investigation.

The 1990 review of Hill's notebooks resulted in the OIC keeping copies of a much greater volume of relevant notes than the Department of State had produced in response to OIC and congressional requests in 1986 and 1987.⁴⁶ The OIC continued to assume the accuracy of Shultz's well-known testimony regarding his exclusion from information regarding arms shipments to Iran and his (and Hill's) seeming cooperation with each Iran/contra investigation. When Shultz and Hill were reinterviewed at the end of 1990, the OIC remained focused upon the subjects of its investigation at that time: Abrams, Clarridge and Gregg.

45 Hill made his notebooks available to the OIC for its review off-site, first during June 1990 in a secure facility at the Hoover Institution library in Stanford, California, and then during July and August 1990 in a secure section of the National Archives and Records Administration in Washington, D.C. The OIC reviewed these documents anew, identifying and copying all relevant items. It was not until much later that the OIC compared its selection to Hill's original production of relevant notes.

46 Most of the "new" Hill notes that the OIC identified and photocopied in 1990 fell into two categories. Some notes address the plethora of specific topics concerning the Nicaraguan contras (including strategy for obtaining contra aid from Congress, regional diplomatic activity and contra financial analyses) that the OIC had agreed to exclude from its request for relevant Hill notes in 1987. Other notes were created during the period April 24, 1987, through January 20, 1989, which was outside the scope of the OIC's previous requests for relevant Hill notes. The OIC accordingly was not troubled to find these notes when it reviewed Hill's notebooks in July 1990.

On April 5, 1991, the OIC also interviewed Nicholas Platt as part of its continuing investigations of Clarridge, Abrams and Gregg.⁴⁷ Platt described his notetaking practices as executive secretary and said that, although he already had reviewed his notes for any relevant Iran/contra material and turned the relevant notes over to both Congress and the OIC, his complete notes were in a safe deposit box at a local bank, and the OIC was welcome to review them and duplicate them as necessary.⁴⁸ The following Monday, an FBI special agent took custody of Platt's original notes for the period January

1985 through February 1987.⁴⁹ In May 1991, after a brief review of Platt's original handwritten notes revealed that they were highly relevant to the continuing Iran/contra investigation, the OIC requested and obtained Platt's permission to copy his entire collection of notes.⁵⁰ The OIC returned Platt's original notes later in 1991.⁵¹

47 Platt, FBI 302, 4/5/91, pp. 4-9. This interview, which the OIC had requested months earlier, had been deferred until Platt, who was serving as United States ambassador to the Philippines at the time, was in Washington for regular consultations.

48 Ibid., pp. 2-3.

49 Ibid., 4/8/91, p. 1.

50 Letter from John Q. Barrett to Ambassador Platt, 5/28/91, 016491; Letter from Ambassador Platt to Barrett, 6/5/91, 016596.

51 Platt, FBI 302, 9/24/91, p. 1.

It was not until the summer and fall of 1991, in connection with the accelerating investigations of Abrams and several CIA officials, that the OIC realized that Hill's notes were inconsistent with Shultz's testimony. Further investigation revealed that Hill had not produced these notes in 1986 or 1987, and that Platt had not produced corresponding notes of many of the same events. The OIC later obtained notes from other Department of State officials that also had not been produced to Iran/contra investigators.⁵²

52 For example, in 1991 and 1992, the OIC located for the first time handwritten meeting and reminder notes that had been created contemporaneously by three junior foreign service officers (Glyn Davies, Keith Eddins and Debi Graze) who served as special assistants to Shultz during 1986-87. Although these notes were largely cumulative, repeating much information that Hill, Platt, Ross, Quinn and/or Raphael had recorded in their notes, they occasionally contained substantive information that was not recorded in any other document. These notes were not produced earlier because the Department of State failed to advise the special assistants that they had been requested. (Eddins, FBI 302, 1/28/91, p. 6; Graze, FBI 302, 8/27/92, p. 3.) When contacted directly by the OIC in 1991-92, each special assistant promptly and voluntarily provided the requested material.

Shultz's "Three Phases" of Department of State Knowledge Regarding Arms Shipments to Iran

Starting with his earliest closed-session testimony before Congress on December 16, 1986, Shultz characterized his knowledge of the Iran arms shipments in three phases: from June to November 1985, when he said he knew arms sales were debated but was not informed that any took place; from December 1985 to May 1986, when he said he knew the United States was attempting to open a dialogue with Iran but was unwilling to sell arms; and from May 4 to November 3, 1986, when he received no information of arms transfers. In essence, Shultz's testimony centered more on what he did not know than on what he did; it laid the groundwork for the widely held misperception that he and other Department of State officials were largely ignorant of the Iran arms shipments. Shultz's testimony -- which was prepared by Hill and Sofaer, and reviewed by Platt -- specifically characterized the development of the Iran initiative, and his knowledge of the initiative, as follows:

The following chronology would fail to give the full picture as I saw it if I did not note at the outset that this year-and-a-half-long episode involving contacts with Iran seems to me in retrospect to have taken place in three phases: an initial period from June until November 1985 when arms transfers were periodically debated as part of an effort to improve relations with Iran and secure the release of our hostages -- during this period I learned of two proposed arms transfers, but was not informed that either was consummated; a middle period, from December '85 to May '86, during which I had strong evidence that we were trying to open a dialogue with Iran but were unwilling to sell arms;

and a third phase, from May 4, 1986, when I heard of a discussion in London about arms transfers and protested to the White House, until the revelations in the media beginning November 3, 1986 -- during this period I received no information indicating that an arms transfer to Iran had occurred.⁵³

⁵³ Shultz, SSCI Testimony, 12/16/86, pp. 6-7 (emphasis added); accord, Shultz, House Foreign Affairs Committee (HFAC) Testimony, 1/21/87, pp. 13-14; Shultz, Tower Commission Testimony, 1/22/87, pp. 8-9. In 1992, Shultz explained that it had been his thinking that the "three phases" construct

just made the account more understandable and easier to describe. The phases were characterized, I believe, by if a phase came to an end and I concluded for one reason or another that the effort to sell arms to Iran had stopped, so that ended the phase.

(Shultz, OIC Interview, 2/12/92, p. 37.) Although Shultz had abandoned the "three phases" organizational scheme by the time he gave public testimony before the Select Committees in July 1987, the substance of his testimony was largely unchanged and he did, on one occasion, resurrect "three time periods" in response to a specific question. (Shultz, Select Committees Testimony, 7/24/87, pp. 87-93.) He also told the Select Committees at the beginning of his testimony that he would make no opening statement because Congress had his prior Iran/contra testimony and what he had to say was "basically the same testimony. So I don't choose to read it out again." (Ibid., 7/23/87, p. 2.)

The evidence contained in contemporaneous notes supports the thesis that Shultz and others in the department opposed the initiative. But it does not support the commonly accepted corollary: that they were prevented from monitoring the initiative. In fact, Shultz and his senior officials did monitor the initiative. As a result, Shultz and other top department officials had a far better understanding of the initiative than their testimony suggests. Moreover, significant aspects of Shultz's testimony were incorrect: Shultz learned in "phase one" that arms had been shipped; Shultz repeatedly complained during "phase two" that arms were still on the table; and there is strong evidence that, during "phase three," Shultz learned in both late May and late July that arms had been shipped to Iran in exchange for the release of hostages. The evidence shows that Shultz's characterization of each of the three phases set out in his testimony was incorrect: Shultz and others in the department were substantially better informed during each of the three phases than he stated.

Phase One: "from June until November 1985 . . . I learned of two proposed arms transfers, but was not informed that either was consummated"

As Shultz told Congress, he learned during 1985 of two proposed transfers of U.S. arms to Iran: the Israeli TOW missile shipments planned for August and September, and the Israeli HAWK missile shipment planned for November. He did not admit knowledge that either was consummated.

Contemporaneous notes taken by both Platt and Hill show that Shultz and other senior Department officials received information indicating that the transfers had taken place. These notes corroborate McFarlane's contention that he had kept Shultz and others informed about the Iran initiative.

Hill's notes reflect that McFarlane informed Shultz (who was traveling in Australia) by a "back channel" cable transmitted on July 14, 1985, that he (McFarlane) had been advised by an Israeli emissary of contacts with Iranians who

were confident that they cld [could] achieve the release of the 7 hostg [hostages]. They sought some gain in return: 100 TOWS from Israel -- but the larger purpose wld [would] be the opening of the private dialogue w [with] a high level American official and a sustained discussion of US-Iranian relations[.] ⁵⁴

54 Hill Note, 7/14/85, ANS 0001109 (emphasis deleted); Back Channel Cable from McFarlane to Shultz (unnumbered), 7/14/85, ALV 005092-95.

Shultz directed Hill to "do a cautiously positive reply to say ok." 55 Shultz, by cable transmitted later that day, told McFarlane that he (Shultz) agreed

55 Hill Note, 7/14/85, ANS 0001109. This note was not produced to the FBI, Independent Counsel, the Tower Commission or the Select Committees during 1986 or 1987.

that we should make a tentative show of interest without commitment. . . .

That being said, I further agree with you that this situation is loaded with "imponderables" that call for great caution on our part. . . . I would only underscore a couple of them: the fraud that seems to accompany so many deals involving arms and Iran. . . .

I suggest . . . that we give the emissary a positive but passive reply. That is tell him that he may convey to his Iranian contacts that the U.S. has been informed of the Iranian proposal and is receptive to the idea of a private dialogue involving a sustained discussion of U.S.-Iranian relations. In other words, we are willing to listen and seriously consider any statement on this topic they may wish to initiate. . . .56

56 SECTO 13108, 7/14/85, ALW 001132-34.

Shultz followed up after he returned to Washington on July 19, 1985.57 Hill made a note that Shultz should "check w[ith] Bud" McFarlane about

57 Shultz Record of Schedule, 7/19/85, ALW 0048791.

* "Emissary" from Israel re Israel-Iran contact to help w[ith] A. 7 hostages B. moderates in post-Khomeini Iran (Gorbanefar) [sic] 58

58 Hill Note, 7/23/85, ANS 0001140. Shultz also discussed this topic at a "wrap up" meeting with his senior aides late the next day. (Hill Note, 7/24/85, ANS 0001141.) Hill made another note two days later that Shultz should "check out" this matter with McFarlane. (Hill Note, 7/26/85, ANS 0001143.) On August 5, 1985, Hill made a note indicating that he told Shultz to ask McFarlane "tonight at 6 pm" about "Peres + Isr [Israel]/Iran intel [intelligence] link[.]" (Hill Note, 8/5/85, ANS 0001152.) None of these notes was produced to the FBI, Independent Counsel, the Tower Commission or the Select Committees during 1986 or 1987.

On August 6, Hill took detailed notes of Shultz's "read out," or recounting, of his conversation with McFarlane regarding the "Israel-Iran link:"

3 mtgs [meetings] betw [between] Israelis + 2 or 3 from Iran (Hamburg + Tel Aviv) Bud's contact is [Israeli official David] Kimche. Was in DC on weekend. Irans [Iranians] sees IR [Iran] in shambles. See new govt as inevitable. Mil [military] + people still pro-American. Want a dialogue w [with] Amers [Americans]. Want arms from us. Want 100 TOWS from Israel. All totally deniable. Say they can produce 4 or more of hostg [hostages]. Want a meeting somewhere. So Bud is pursuing it. Shamir told Kimche he wanted to know explicitly whether I informed. Kimche sd [said] Murf [Murphy] mtg [with Syria] scares them.59

59 Hill Note, 8/6/85, ANS 0001154.

Hill also noted his own response to Shultz's report, and Shultz's ultimate response to McFarlane:

g008CH [Charles Hill] to (S) [Shultz]

We are being had. Isr [Israel] desperate for a big arms trade rel [relationship] w [with] Iran that US permits. They have finally hit on the way to do it.

(S): its a mistake. I sd [said] it had to be stopped 60

60 Ibid.

On September 4, 1985, Platt noted information -- which he labeled as a matter that had lots of ``juice" 61 -- about Shultz-McFarlane discussions and ``equipment" shipments to Iran in exchange for hostages:

61 Platt Note, 9/4/85, ALW 0036258. Platt's deputy said Platt used the term ``juice" to refer to anything that was ``especially interesting." (Quinn, FBI 302, 12/4/91, p. 3.)

-- Juice -- O [Oliver North] -- Bud [McFarlane] -- Ledeen -- Back channels Israel-Iran -- would produce 7 hostages[.] Kimche. g722Israel Israelis g722produce said they could produce -- Because Iranians wanted equipment.

Past 2 days -- sidebar conversations w Bud + S [Shultz] -- How to move them -- numbers, etc. . . .

-- This AM Bud said to S -- Deal is -- They'll move seven hostages to beach . . .

-- Ollie North will go out + arrange. He needs a fake passport -- g722will get We have one.62

62 Platt Note, 9/4/85, ALW 0036258-59.

On September 11, 1985, Hill noted his awareness that these exchanges would leave the United States with an obligation to replenish ``arms" to Israel:

Bud [McFarlane] wkg [working] on 7 hstgs [hostages]. Don't stir it up. Its independent from Syrian effort. Iran-Israel. Shd [Should] be worked thru by end of week.

(Scam on us) They [Iran] giving us what wld [would] anyway [hostages] (for Atlit [prisoners in Israel]) + then give us a bill for arms for IR [Iran] from Israel.63

63 Hill Note, 9/11/85, ANS 0001117. This note was not produced to the FBI, Independent Counsel, the Tower Commission or the Select Committees during 1986 or 1987.

On the evening of September 14, 1985, the balance of the Israeli TOW shipment went to Iran and Reverend Benjamin Weir was released. The next day, Platt made a note, based on a call from Oakley (who had just spoken with North) that ``Polecat [is] beginning to Pay off -- Weir has been released. . . . Other things could happen." 64 On September 16, Hill's first note of the day recorded his understanding of events:

64 Platt Note, 9/15/85, ALW 0036343.

Weir released + taken to CIA [facility] in Va. Secret because op. [operation] still going on. Oakley working w Ollie [North].

McF [McFarlane] + Ollie are getting us into deal where we will have to pay off Isr [Israel], IR [Iran] and Syr [Syria] for what we wd [would] get from Syria for nothing following Atlit release.65

65 Hill Note, 9/16/85, ANS 0001123. This note was not produced to the FBI, Independent Counsel, the Tower Commission or the Select Committees during 1986 or 1987.

On September 17, 1985, Weir's release became public and both Platt and Hill's notes reflect numerous discussions about the release. They both noted an early morning telephone call between Hill and Reginald Bartholomew, the U.S. ambassador to Lebanon.⁶⁶ Bartholomew, who had not been informed of any of the arms-for-hostages proposals leading up to Weir's release,⁶⁷ told Hill that "all signs are we g008didn't get Weir from Syria. As for others (IR [Iran], Isr [Israel] etc) I have no info." ⁶⁸ Bartholomew, from his position outside the circle of knowledge in Washington, said it was his feeling that "Weir was let out to g722put bring letters + put pressure on us to release the Dawa prisoners [in Kuwait]." ⁶⁹ Since then, Shultz has used Bartholomew's uninformed speculation that Weir was released to deliver a message regarding the Dawa prisoners as proof that it was the reason for Weir's release and that Shultz, himself, was unaware of the arms transfers that preceded Weir's release.⁷⁰ Contrary to Shultz's pretenses, Hill's notes from later in the day on September 17, 1985, show that Shultz did receive indications that arms were involved.

⁶⁶ Hill Note, 9/17/85, ANS 0001125; Platt Note, 9/17/85, ALW 0036354.

⁶⁷ Bartholomew, FBI 302, 1/2/92, pp. 3-6; Hill Note, 9/17/85, ANS 0001125 ("I [Bartholomew] know precious little about origins of this or who is involved. Bud [McFarlane] has told me nothing of who else [is] involved.").

⁶⁸ Hill Note, 9/17/85, ANS 0001125.

⁶⁹ Platt Note, 9/17/85, ALW 0036354. The Dawa prisoners held in Kuwait reportedly included a close relative of a key member of the Hezbollah faction that was holding the hostages in Lebanon. (See generally Shultz, OIC Interview, 2/12/92, pp. 72, 93, 95, 159; Shultz, OIC Interview, 2/13/92, pp. 300-1.)

⁷⁰ E.g. Shultz, OIC Interview, 2/12/92, pp. 60-61, 70-73, 77, 79, 90, 113, 115, 172-73. The suggested explanations are not mutually exclusive: The terrorists could have decided to free Weir after Iran received TOW missiles from the West, and they could have told Weir that the remaining hostages would suffer unless he communicated the terrorists' demand that Kuwait free the Dawa prisoners.

On the day that Weir's release was announced, NBC News had a story about an airplane that had run into trouble on its flight back to Israel after delivering arms to Iran. Hill noted on September 17, 1985:

NBC -- Isr. [Israeli] arms to g722arms Iran.

DC-8 flew from Iran to Isr [Israel]. Isr sd yes, but elec. + commo [electrical and communications] failure. Story is Iran Jews on board. Plane picking up spare parts. Kimche met in London in last month w [with] NSC official. + arrangements made. US interested in leverage w Iran mil. (ingratiating) over what comes after Khomeini.

(false) Kashoggi [sic] + Nimrodi.⁷¹

⁷¹ Hill Note, 9/17/85, ANS 0001126. Hill marked this note with stars and the symbol "H)," which indicated that he regarded the information as "interesting." This note was not produced to the FBI, Independent Counsel, the Tower Commission or the Select Committees during 1986 or 1987.

The Department of State apparently learned of NBC's information through a telephone call from NBC reporter Chris Wallace to Raphel on September 17, 1985. (See Raphel Note, 9/17/85, ALW 0062116-17; same information as Hill's 9/17/85 note; Raphel Chronology, 1987, p. 1, ALW 0056726.) A series of State Department cables during this period also referred to the reports of the plane returning to Israel running into trouble over Turkey after delivering weapons to Iran. (See Department of State cable to Beirut, Damascus and London, 9/17/85, ALW 025278-79; MANAMA

02805, 9/19/85, ALW 025287; Department of State cable to all Near East diplomatic posts, Ankara, Paris, London, Rome and Nicosia, 9/19/85, ALW 025282-83; see also "Rara avis," The Economist, 9/21/85, p. 42, ALW 025280; cf. RIYADH 08507, 9/23/85, ALW 025281, reporting front page Al Riyadh story of previous day claiming President Reagan sent U.S. official to Tehran to discuss release of hostages in Lebanon.)

Hill noted Shultz's reply: "Well, sometimes you have to try things." Hill's note indicates that he told Shultz The Washington Post had a story that Weir had been released. Hill observed that reporters "[h]ave not yet put the two [stories] together." In the margin of his notebook, he wrote: "Bud's folly is out." 72

72 That same day, Platt made notes of McFarlane's report that the effort to obtain hostages other than Weir "appears not going anywhere" and wrote that this activity had turned into a "[r]ace between Syria to round up hostages so [Classified Country Name Withheld] can pay or Israelis can pay iranians with weapons sales." (Platt Note, 9/17/85, ALW 0036360.)

On September 20, 1985, after it was clear that no additional hostages would be freed, Shultz stated that he was "uncomfortable with polecat operations." 73 The next day, Shultz, Armacost and Whitehead discussed their concern for the U.S. Government position -- bargaining for hostage release while publicly denying a deal. Hill recorded their discussion in his notebook:

73 Platt Note, 9/20/85, ALW 0036387. This note was not produced to the FBI, Independent Counsel, the Tower Commission or the Select Committees during 1986 or 1987.

g008Weir + 6 Hostg [Hostages]

Arma [Armacost]: I have anxiety about

strange bargaining going on. Iran plane in Israel.

(S): I'm not comfortable, don't know what to do about it.

When Weir released, lot of people wanted

to take credit for it. But looks like they let him go just to propagandize their cause.

Arma -- They are being cute w [with] me.

Pdx [Poindexter] just says its v [very] confused.

I wd be concerned about bargaining w Iran while we say we not doing a deal.

(S): WH [White House] has taken control. When they want us to do something they will tell us.

JW [Whitehead]: do you tk [think] they tell the P [President]?

(S): Yes, But he doesn't appreciate the problems w [with] arms sales to Iran.⁷⁴

74 Hill Note, 9/21/85, ANS 0001132-33 (original emphasis). This note was not produced to the FBI, Independent Counsel, the Tower Commission or the Select Committees during 1986 or 1987.

In 1993, Armacost acknowledged that during the period surrounding Weir's release, arrangements involving "giving something for hostages" were "going on," and Armacost understood that one major component was arms going to Iran.⁷⁵ Armacost, although not recalling specific discussions, testified that the connection between Israel's dealings with Iran and Weir's release "surely" was something that he and Shultz discussed.⁷⁶ Oakley, who was informed by North that an arms

shipment produced Weir's release,⁷⁷ generally kept Shultz informed by briefing Armacost and Platt.⁷⁸ Oakley believed that Shultz knew everything that he knew about the Weir release because he had reported his information.⁷⁹ McFarlane and Poindexter also testified that they informed Shultz about the Israeli shipments preceding the release.⁸⁰

⁷⁵ Armacost, Grand Jury, 3/13/92, p. 30.

⁷⁶ Ibid., p. 43.

⁷⁷ Oakley, FBI 302, 8/19/87, p. 2; Ibid., 11/13/91, pp. 3, 5; Ibid., 11/14/91, p. 2; accord, Oakley, Tower Commission Interview Notes, 12/17/86, p. 2, ALS 002391.

⁷⁸ E.g. Ibid.

⁷⁹ Oakley, FBI 302, 11/14/91, p. 4.

⁸⁰ E.g. McFarlane, FBI 302, 3/20/92; Poindexter, Select Committees Testimony, 7/15/87, pp. 180-81.

Notes from November and December 1985 corroborate this testimony and reflect the working understanding within the Department of State that the Weir release had, in fact, involved arms transfers to Iran. A note taken by Raphel during a meeting with Armacost, Oakley, Borg and Ross on November 12, 1985, states that ``Iranian/Israeli connection got Weir released." ⁸¹

⁸¹ Raphel Note, 11/12/85, ALW 0062333. Raphel, who died in 1988, was not interviewed regarding this note.

An early morning Hill note from November 18 reflects the same understanding. It indicates that Hill and Shultz discussed:

McF [McFarlane] + Isr/IR [Israel/Iran] hostg [hostages]. That was attempt to see (S) [Shultz] last night. He thinks something's coming down in next week or so (not for the first time)

-- Nothing cld [could] be more

(S): its appropriate than a meeting

a bad betw [between] [a non-Iranian

deal intermediary] + Ollie North.

Looney Tunes.⁸²

⁸² Hill Note, 11/18/85, ANS 0001194. This note was not produced to the FBI, Independent Counsel, the Tower Commission or the Select Committees during 1986 or 1987.

The next day, Hill made another note regarding ``Ollie North's hostg [hostage] caper. Ollie telling story (skewed) to Parker Borg. Using [non-Iranian intermediary] (witting) as cover." ⁸³ Hill later received a secure telephone call from Platt in Washington, D.C. Platt reported that North told Borg he (North) had stumbled on the Israelis sending arms to Iran as a result of his contra activities. North claimed he ``went to Isr [Israel] + sd [said] we know yr [you're] doing this + we want something for it -- use yr [your] channel to IR [Iran] to get hstg [hostages] out. They thot [thought] all wd [would] come out w [with] Weir. Didn't. Now will try again." ⁸⁴ Hill responded to this account of North's story by stating, ``I think Ollie is lying to try to make the arrangement sound more acceptable. We (he) didn't just stumble on this." ⁸⁵

83 Hill Note, 11/19/85, ANS 0001198. This note was not produced to the FBI, Independent Counsel, the Tower Commission or the Select Committees during 1986 or 1987.

84 Hill Note, 11/19/85, ALW 0058650 (misdated as 11/18/85). This note was not produced to the FBI, Independent Counsel, the Tower Commission or the Select Committees during 1986 or 1987.

85 Ibid.

A memorandum from Oakley sent electronically to Shultz in Geneva on November 18, 1985, states that,

[t]hrough other sources and connections, those used for the release of Reverend Weir, there is an expectation of a possible break through on the hostages on November 20 or 21. [Non-Iranian intermediary] was informed of the possibility and urged to be present so he could take credit.⁸⁶

86 Memorandum from Oakley to Shultz, 11/18/85, ALW 0047963-65.

As Shultz has testified, McFarlane informed him in Geneva the next day (November 19, 1985) that the remaining hostages were about to be released following a shipment of 120 HAWKS from Israel to Iran. Oakley's memo and McFarlane's report together told Shultz that the Weir release had involved the same kind of arms-for-hostages deal. Oakley's memorandum stated the "sources and connections" who were developing the November 1985 activity were those used for the release of the Reverend Weir. McFarlane's report disclosed these "sources and connections" included the Israelis and their arms dealers. The inference from Oakley's memorandum and McFarlane's report, then, is that the Israelis were following the same pattern in November 1985 to obtain the release of the remaining hostages, as they had in obtaining the release of Weir.

Notes from discussions leading up to the December 7, 1985, White House meeting of the President with his national security advisers confirm Shultz's and other senior department officials' awareness of the Israeli arms transfers prior to the Weir release. Shultz spoke with Poindexter on December 5, 1985, first by unsecured telephone, then on secure. Shultz reported to Hill that during the first call he (Shultz) told Poindexter,

I think we shd [should] say g008stop[.] Syria has indicated to Murf [Assistant Secretary Richard W. Murphy] that Iran [is] playing a big role + they can't influence it much. We are signalling to Iran that they g008can kidnap people for profit.⁸⁷

87 Hill Note, 12/5/85, ANS 0001227 (emphasis in original).

Later, during the secure call, Shultz said, "This is paying for hostgs [hostages] -- so we have broken our principles." ⁸⁸ The only hostage who had been paid for at that point was Weir, and the only currency that had been discussed was arms.

88 Ibid., ANS 0001229.

Hill's notes of Shultz's report of the December 7, 1985, meeting state:

They [McFarlane and Poindexter] say Isr [Israel] sent 60 I-hawks [missiles] for release of Weir. Maybe thats why he released + maybe not. [Non-Iranian intermediary] sent back to Beirut so he can get credit for it.⁸⁹

89 Hill Note, 12/7/85, ANS 0001242; accord generally Shultz, OIC Interview, 2/12/92, p. 45 ("I'm not a military person so I always have trouble with TOWs and HAWKS and things like that.").

Hill's note shows that Shultz was informed that arms transfers in fact had been consummated in connection with the release of Weir. Thus, although Shultz stated as recently as February 1992 that

he still believed that Weir was released to bring pressure on Kuwait to release the Dawa prisoners, and not because of the Israeli arms shipments, he could not maintain that he was never informed that Israel made arms shipments at or before the time of the Weir release.

Before the Select Committees in 1987, Shultz testified that McFarlane had informed Shultz and President Reagan on August 6, 1985, of an Israeli proposal to sell 100 U.S.-supplied TOWs to Iran in return for the release of four Americans held hostage in Beirut.⁹⁰ Shultz testified that he objected and heard nothing indicating that the transfer had taken place.⁹¹

⁹⁰ Shultz, Select Committees Testimony, 7/23/87, pp. 67-68. Hill's notes do not reflect such a meeting with McFarlane and the President on August 6, 1985.

⁹¹ Ibid.

Regarding the November 1985 HAWK shipment, numerous notes reflect that Shultz and other senior department officials were informed contemporaneously of many of its details, including discussions prior to the Geneva summit of President Reagan and Soviet Leader Mikhail Gorbachev, the flight plan, the need for overflight clearances, the delay in the shipment and the reasons the Iranians eventually returned the missiles.

With regard to the November 1985 shipment of HAWKs, Shultz testified to Congress that he knew the shipment was planned, but that he believed that it was never consummated. At first, he believed no arms were actually sent. Later, he understood the shipment had been unsatisfactory and therefore returned. He said:

I learned about the -- I learned about the proposed shipment in connection with the hostages, as I described it, in the telephone call in Geneva. But since no hostages were released, I assumed that no arms were sent. I later learned, as I testified, that a shipment went from Israel to Iran but was rejected by Iran and presumably sent back; so as of that time, as far as I knew, no arms had been shipped.⁹²

⁹² Shultz, HFAC Testimony, 1/21/87, p. 64.

The shipment was not in fact sent back to Israel until February 1986. No contemporaneous State Department records indicate a belief that the shipment was immediately "sent back." ⁹³

⁹³ Congress never asked Shultz whether he was informed that the President had approved the shipment, and he never volunteered that information. Hill's notes reflect that McFarlane told Shultz, before the shipment, that the President had approved what Shultz called at the time "A 30M [\$30 million] wpns [weapons] payoff." (Hill Note, 11/22/85, ALW 0058654.)

Phase Two: "from December '85 to May '86, during which I had strong evidence that we were trying to open a dialogue with Iran but were unwilling to sell arms"

Shultz's position on phase two was that during this period he "had strong evidence that we were trying to open a dialogue with Iran but were unwilling to sell arms." ⁹⁴ The notes of Hill, Platt and others, however, reflect Shultz's awareness of ongoing arms-for-hostages negotiations during nearly this entire period.

⁹⁴ Shultz, SSCI Testimony, 12/16/86, p. 6. In 1992, Shultz stated that his December 1986 testimony had incorrectly drawn the line between phases two and three in early May 1986. Shultz said that he should have started phase three some time in or after early June 1986, after McFarlane's trip to Tehran with a payload of HAWK missile battery parts. Shultz said that he had meant to draw the line between phases two and three at the point that Poindexter and Casey told him "that the whole

operation was going to stand down or some phrase like that." (Shultz, OIC Interview, 2/12/92, p. 229.)

Both Platt and Hill took notes of a meeting between Shultz and Armacost on January 4, 1986, in which they discussed the Iran initiative. Shultz told Armacost that Israeli counterterrorism adviser Amiram Nir had met with Poindexter ``to revive hostg [hostage] idea." The new deal would involve trading ``3300 TOWS for hostg [hostages]." Shultz reported that he told Poindexter that the new proposal raised ``all [the] same probls [problems] as before. A payment. Blows our policy." Shultz complained to Armacost, ``[s]o its not dead. [Israeli Prime Minister Shimon] Peres comes to me on some things + to the NSC [staff] on others." 95

95 Hill Note, 1/4/86, ANS 0001255. This note was not produced to the FBI, Independent Counsel, the Tower Commission or the Select Committees during 1986 or 1987.

Following a January 7, 1986, meeting at the White House, Shultz made a brief report to Hill. Hill's note of the report, under the caption ``Iran Polecat," states: ``P [President Reagan] decided to go ahead. Only Cap [Weinberger] + I opposed. I won't debf [debrief] anybody about it. (TOWS for hostages)." 96 Then, on January 14, Hill noted that Armacost reported to Shultz that ``g008Hostg [hostage] dealing still going on." Shultz's response was ``WH [White House] is running this. No comment[.]" 97

96 Ibid., 1/7/86, ANS 0001264 (emphasis deleted). This note was not produced to the FBI, Independent Counsel, the Tower Commission or the Select Committees during 1986 or 1987.

97 Ibid., 1/14/86, ANS 0001270. This note was not produced to the FBI, Independent Counsel, the Tower Commission or the Select Committees during 1986 or 1987.

Three days later, on January 17, 1986, there was another meeting at the White House to discuss the initiative. Platt noted Shultz's report of that meeting as follows: ``[l]ong discussion of Polecat at lunch. He [Shultz] half shut his eyes -- Want it to be recorded as[:] A[.] unwise [and] B[.] illegal." 98

98 Platt Note, 1/17/86, ALW 0037151.

News of the new arms transactions circulated through Shultz's inner circle. Armacost's deputy Ross on January 23 noted that Quinn reported that Raphel had heard that the arms-for-hostages effort had been reactivated, that this might indicate the Iranians had come back to us, that a reported hostage-relief initiative involving New York Cardinal John O'Connor might simply be a cover,⁹⁹ and that Shultz had said the department should stay out of the activity but attempt to keep itself informed:

99 In January 1986, Department of State officials learned of a complicated initiative to free Shi'ite detainees held by Israel in South Lebanon as a means of obtaining the freedom of the hostages in Lebanon. This supposed initiative involved such religious figures O'Connor, Terry Waite, Pope John Paul II and the Greek Orthodox Patriarch in Damascus, Syria, along with General Antoine Lahad in South Lebanon. See, e.g., Memorandum from P -- Christopher Ross to the Files, Subject: Transcription of Personal Notes in Response to Request for Search for Documents, Ref: L [Sofaer] and A [Bouchard] Memorandum Dated November 29, 1986, 12/8/86, p. 5, ALV 002745-46 (Ross' translation and narrative explanation of his 1/14/86 handwritten note).

1/23 g0081100 KQ [Quinn]

* * *

(2) AR [Raphel] info of Sat meeting

reactivating Arms for hostages.

Iranians came back?

GPS [Shultz]: let's stay out, just keep

informed. No control or

involvement.¹⁰⁰

¹⁰⁰ Ross Note, 1/23/86 ALW 0047076; accord Memorandum from P -- Christopher Ross to the Files, Subject: Transcription of Personal Notes in Response to Request for Search for Documents, Ref: L [Sofaer] and A [Bouchard] Memorandum Dated November 29, 1986, 12/8/86, p. 6, ALV 002746 (Ross' translation and narrative explanation of his 1/23/86 handwritten note).

On January 24, 1986, Platt noted: ``Polecat lives." ¹⁰¹

¹⁰¹ Platt Note, 1/24/86, ALW 0037163. This note was not produced to the FBI, Independent Counsel, the Tower Commission or the Select Committees during 1986 or 1987.

On February 6, the U.S. Embassy in Paris sent a ``No Distribution" (NODIS) cable to Shultz reporting that the ``Embassy has been approached by a French, Swiss-based arms dealer . . . with a written prospectus alleging ongoing negotiations between the government of Iran and U.S. middlemen toward exchange of 10,000 TOW missiles for release of six U.S. hostages in Lebanon." ¹⁰² Hill noted the cable in his notebook as follows: ``g008Polecat? NODIS from g008Paris. Its spreading around[.]" ¹⁰³

¹⁰² PARIS 05480, 2/6/86, ALV 004154-60.

¹⁰³ Hill Note, 2/7/86, ANS 0001317. This note was not produced to the FBI, Independent Counsel, the Tower Commission or the Select Committees during 1986 or 1987. The Department of State replied, in a cable drafted by Oakley, to the Paris cable on February 23: ``As Embassy [Paris] has surmised, the proposal described Reftel [in the Paris cable] is a scam. There is no rpt [repeat] no USG [U.S. Government] official involvement in or knowledge of the purported arrangement to transfer TOW missiles to Iran, nor is there any evidence of which USG is aware that such a transfer would produce the release of American citizens held hostage in Lebanon." (STATE 054752, 2/22/86, ALV 004161-64.) The reply appears to have been literally true, because the proposal described in the Paris cable was not the proposal the White House had approved. But, as Hill's note reflects, the cable was a foretaste of leaks to come.

On February 11, Shultz attended a ``family group" lunch with Poindexter, Weinberger and Casey.¹⁰⁴ Weinberger took extensive notes of the discussion, which revolved around the arms-for-hostages arrangements.¹⁰⁵ Weinberger's notes record a timeline for the anticipated hostage release that included 1,000 TOW missiles being transferred from Kelly Air Force Base in Texas to Israel on February 15.¹⁰⁶ According to the timeline, 500 of the TOW missiles were to be delivered to Bandar Abbas in Iran on February 16, and the second 500 TOWs would be delivered on February 19, with the U.S. hostages to be released on February 23.¹⁰⁷ Appearing after the timeline in Weinberger's notes is a statement attributed to Shultz: ``Try to find pattern of various connections between a number of countries -- ours with Iran, French with Iraq, South Africa, etc. etc." ¹⁰⁸ The latter note indicates that Shultz was present for the entire lunch, including the recitation of the timeline.

¹⁰⁴ Shultz Record of Schedule, 2/11/86, ALW 0049130. Shultz explained that he arranged for these periodic, principals-only gatherings, which began during McFarlane's tenure as national security adviser and continued during Poindexter's, ``to create more amity among the people who tended to be fighting with each other a lot." (Shultz, OIC Interview, 2/12/92, p. 89.) These lunches, which would not occur unless all four ``family" members could be in attendance, typically occurred in the White House Family Dining Room. (Ibid., pp. 89, 203.)

105 Weinberger Meeting Note, 2/11/86, ALZ 0040652A-52E.

106 Ibid., ALZ 0040652D.

107 Ibid.

108 Ibid., ALZ 0040652E.

The next family group lunch took place February 21, 1986. Afterward, Shultz reported to Hill and Platt that the ``hostg [hostage] deal getting screwed up. [syndicated columnist] Jack Anderson is on to it." Shultz also reported that the hostage ``[t]urnover supposed to be g008this g008weekend [as would be expected based on the timeline laid out at the February 11 Family Group lunch]. I pleaded w [with] Pdx [Poindexter] that if not pls [please] shut it down. Fr [French] got stung. Spaniards too." Shultz added, ``I think we have already turned over some wpns [weapons]" -- again, as would be expected based on the timeline. In fact, 1,000 TOW missiles had been delivered to Iran between February 15 and 17, 1986. Shultz concluded by stating that ``at F4 [family group] we agreed no comment on any Qs [questions]. But we will get crucified." 109

109 Hill Note, 2/21/86, ANS 0001321. This note was not produced to the FBI, Independent Counsel, the Tower Commission or the Select Committees during 1986 or 1987.

Platt's corresponding notes are similar:

Hostage deal. Have not wanted to know much. Getting g722fuc screwed up to a fare the [sic] well

-- Israelis have screwed up

-- Jack Anderson has wind

-- g008turnover to take place this weekend

-- French have paid penalty -- have not gotten people out. Spaniards got a deal.

-- Asked PDX [Poindexter] to shut it down if it doesn't work.

-- Agreed that in respect to Qs [questions] CT [State's Office of Counterterrorism] et al stonewall, but we will get g722cruciffee crucified.

(Platt Note, 2/21/86, ALW 0037404-05.) This note was not produced to the FBI, Independent Counsel, the Tower Commission or the Select Committees during 1986 or 1987.

Platt reported this conversation to Quinn, who noted ``[t]urnover of people this weekend. If it doesn't work -- please shut it off. Some weapons already Exchanged." (Quinn Note, 2/21/86, ALV 002336.)

The next development came in March, when Department officials learned that one of the Iranian negotiators was going to come to Washington, D.C., in April. Raphel reported to Quinn that a DoD component wanted to tap the Iranian's phone while he was in Washington and that the visit indicated that the initiative ``was back on." 110

110 Quinn Note, 3/31/86, ALV 002337.

Iranian arms broker Manucher Ghorbanifar did visit Washington in April 1986. On April 3, Shultz reported to Hill and Platt that he had talked to Poindexter about the visit, and about a possible meeting between McFarlane and high-level Iranians. Hill's notes state:

g008Polecat VI[111] Money man in town w

111 Hill sarcastically began to add numerals to some of his Polecat notes during 1986.

[with] \$ [money] to pay

for TOWS. If he pays, They'll

set the McF [McFarlane] mtg [meeting].

During that mtg our hostg [hostages] supposed to be released. I [Shultz] sd [said] this all has me horrified. Region petrified that Iran will win + we are helping them. He [Poindexter] said TOWS are defensive wpns [weapons]. I sd [said] ``so's yr [your] old man." 112

112 Hill Note, 4/3/86, ANS 0001399. This note was not produced to the FBI, Independent Counsel, the Tower Commission or the Select Committees during 1986 or 1987.

Platt's notes are to the same effect.

Hill's notes from April 15 indicate he told Shultz that the ``plans are for Bud [McFarlane] to go to Tehran 4/25 w [with] Ollie [North] to work on hostages for arms. To see Rafsanjani[.]" 113 On April 21, Armacost reported to Shultz, as reflected in Hill's notes, that ``Bud [McFarlane] may show up in Tehran on Wednesday [April 23, 1986]." The danger in this planned mission was apparent: Hill asked, ``How much will we pay to get McF [McFarlane] back?" and called it ``all disastrous." 114 The next day, Shultz told Hill (who labeled his note ``g008Polecat 15") that ``Ir [Iran] keeps haggling. P [President Reagan] g722says has said here's the deal + that's it, Pdx [Poindexter] says. -- McF [McFarlane] [is] in town today, so wont be in Tehran tomorrow." 115

113 Ibid., 4/15/86, ANS 0001412. This note was not produced to the FBI, Independent Counsel, the Tower Commission or the Select Committees during 1986 or 1987.

114 Ibid., 4/21/86, ALW 0053811. This note was not produced to the FBI, Independent Counsel, the Tower Commission or the Select Committees during 1986 or 1987.

115 Ibid., 4/22/86, ANS 0001426. This note was not produced to the FBI, Independent Counsel, the Tower Commission or the Select Committees during 1986 or 1987.

Later that day, April 22, Armacost and Shultz discussed a Customs Department sting operation in Bermuda that had resulted in the arrest of six Israelis, charged with selling arms to Iran in violation of U.S. law. According to Hill's notes (which, in a pun on ``Polecat," he labeled ``Poledog"), Armacost worried aloud to Shultz that, ``[i]f it breaks, Isr [Israel] may blow whistle on g008Polecat." 116 On April 24, Hill noted that, as a result of the ``g008Isr [Israel] + arms to Iran sting," Poindexter had ``put Bud's [McFarlane's] trip [to Iran] on ice." 117

116 Ibid., ANS 0001427. This note was not produced to the FBI, Independent Counsel, the Tower Commission or the Select Committees during 1986 or 1987.

117 Ibid., 4/24/86, ANS 0001432. This note was not produced to the FBI, Independent Counsel, the Tower Commission or the Select Committees during 1986 or 1987.

It was in May 1986 that McFarlane's trip to Tehran finally took place. State Department notes reflect discussions about the trip in advance, knowledge that weapons parts were transferred to Iran during the trip, and, subsequently, the mission's failure to obtain the release of the hostages.

The month of May began with a leak similar to that reported in the February 1986 Paris cable, but this time word of U.S. arms sales to Iran surfaced in London. U.S. Ambassador Charles Price called

home and demanded to know what was going on. Price's call prompted Shultz, who was at a presidential economic summit in Tokyo, to confront White House Chief of Staff Regan and Poindexter and demand that the operation be stopped.

Shultz later testified that, following this confrontation, Poindexter assured him in late May that the initiative was over.¹¹⁸ No contemporaneous notes record such assurances. Platt and Hill's notes suggest that, in early May at least, Poindexter gave Shultz a more equivocal response. Hill's May 4 notes state that Shultz said,

118 E.g. Shultz, Select Committees Testimony, 7/23/87, pp. 26-28.

Pdx [Poindexter] sd [said] he told Price [that there was] no more than smidgn [smidgeon] of reality to it. I [Shultz] went thru my feelings. He [Poindexter] doesnt share it. Says we g008not dealing w these people. g008He has great decision-making g008equanimity. But I sd to him he has the P [President] very exposed.¹¹⁹

119 Hill Note, 5/4/86, ANS 0001439.

Platt's subsequent note regarding a Shultz-Poindexter exchange reads as follows:

S [Shultz] made strong personal effort to turn off Polecat tues [Tuesday] AM [May 6, 1986]. Saw Regan + Pdx [Poindexter]. unloaded. D R [Regan] said he'd raise it w Pres [President Reagan]. PDX then muddled waters. . . . S did it again. g7220 No insulation between this operation + Pres. This is wrong + illegal + Pres is way overexposed. Nothing will happen CH [Hill] thinks.¹²⁰

120 Platt Note, 5/8/86, ALW 0037956.

On May 13, Weinberger called Shultz about a specific intelligence report he had just received. The report described an ``arrangement to pay for items being provided to Iran by U.S." <sup>121</sup> That afternoon, Weinberger brought the report to a White House meeting and showed it to Shultz. Weinberger's notes state that Shultz was ``appalled" at the report that, among other things, a U.S. delegation was going to Iran and that ``240 types of spare parts" Iran wanted ``would be available when the delegation arrives." ¹²² A Hill note of May 19 appears to refer to this discussion between Shultz and Weinberger. The note indicates that Hill discussed the following information with Shultz:

121 AMW 0002161-62 (intelligence report).

122 Weinberger Diary, 5/13/86, ALZ 0040148; AMW 0002161 (intelligence report).

Iran at F4 [family group] last Friday [May 16, 1986]? Wbgr [Weinberger] told S [Shultz] about [intelligence report] that Bud [McFarlane] wd [would] get arms there + g008then they see about hostg [hostages]. More + more elusive. Parts for [HAWK] anti-missile system. But we believe sys [system -- Iran's HAWK missile batteries] wont work.¹²³

123 Hill Note, 5/19/86, ANS 0001453. This note was not produced to the FBI, Independent Counsel, the Tower Commission or the Select Committees during 1986 or 1987.

The question of Department of State access to these intelligence reports became an issue during the Select Committees investigation. Shultz consistently testified that he was denied access to the intelligence reports. (E.g. Shultz, Select Committees Testimony, 7/23/87, pp. 75-77.) Although there is no evidence that Shultz generally saw the intelligence reports that were distributed to Executive branch officials, Shultz was at least intermittently given the gist of significant developments contained in them. He had several sources of this information. The director of the Defense Department component that produced these reports, Armacost and his deputy Ross all stated, and Hill's notes reflect, that the defense official regularly called Armacost to report significant developments from the intelligence reports. (Armacost, FBI 302, 1/22/87; Armacost, Grand Jury,

3/13/92, p. 95; Ross, FBI 302, 3/11/92, pp. 3-4.) In addition, Assistant Secretary of Defense Richard Armitage, who was shown some of these reports by Weinberger and Powell, testified that he spoke to Raphael on a daily basis and informed him of significant developments from the intelligence reports; Raphael's handwritten notes reflect these discussions. (Armitage, Grand Jury, 4/29/92, p. 42.) Finally, as Weinberger's diary and meeting notes reflect, Shultz had opportunities during 1985 and 1986 to learn about the intelligence from the people who were receiving hard copies, including Weinberger, Casey, McFarlane and Poindexter.

In the May 13, 1986, instance discussed in the text, Weinberger called Shultz and told him about an intelligence report.

On May 22, Hill reported to Shultz that North was bringing a non-Iranian intermediary to Cyprus, and that Catholic Relief Services was donating \$10 million to poor Shias in Lebanon. Shultz responded, "This is to be [the] cover story for our shipment of TOWs to Iranians." 124 Two days later, May 24, Raphael recorded in his notes that Quinn had told him about a "transfer today -- arms to Iran today." 125 Hill's notes from May 27 indicate that he told Shultz that Poindexter had told Weinberger "[d]eliveries are being made of our mil [military] equip [equipment] -- may see action today on release." Hill also told Shultz that "[the non-Iranian intermediary] is in Beirut with 10m [\$10 million]. We have commo [communications] to him from ships (the cover)." 126

124 Hill Note, 5/22/86, ANS 0001459 (note headed "g008Polecat"). This note was not produced to the FBI, Independent Counsel, the Tower Commission or the Select Committees during 1986 or 1987.

125 Raphael Note, 5/24/86, ALW 0062905.

126 Hill Note, 5/22/86, ANS 0001462 (emphasis in original).

As Hill understood at the time, of course, this information corresponded to real, ongoing activities. On May 28, 1986, Hill accurately reported to Shultz and Platt the unsuccessful conclusion of McFarlane's trip to Iran with a cargo of HAWK missile battery parts:

g008Polecat died. M.O. [McFarlane 127] to Tehran. Talks broke down + on way back. [Non-Iranian intermediary] has left Lebanon. 128

127 Platt, who devised numerous nicknames for people and operations during his tenure as executive secretary, began to refer privately to McFarlane as "the morose one" and, for that reason, Platt and Hill each occasionally used the abbreviation "M.O." in their notes to connote McFarlane.

128 Hill Note, 5/28/86, ANS 0001463. This note was not produced to the FBI, Independent Counsel, the Tower Commission or the Select Committees during 1986 or 1987.

Phase Three: "from May 4, 1986, . . . until the revelations in the media beginning November 3, 1986 -- during this period I received no information indicating that an arms transfer to Iran had occurred"

Shultz's testimony that "during this period I received no information indicating that an arms transfer to Iran had taken place" is most clearly incorrect with respect to the information about arms transfers he received in May. Shultz was warned by Armacost, Oakley and Raphael that the arms-for-hostages initiative had not been abandoned after McFarlane's failed trip to Tehran. There also is strong evidence that Shultz received information indicating arms transfers had taken place in connection with the release of Father Lawrence Jenco in July 1986.

On or about May 28, British counterterrorism counterparts confronted Oakley with the accusation that the United States was violating its "no concessions [to terrorists] policy." 129 Following this

confrontation, Oakley wrote to Platt what appears to be the first official State Department document complaining about the ongoing Iran initiative. Oakley's June 2, 1986, memorandum, which followed up on Armacost's May 30 report to Shultz,¹³⁰ states that "there is no doubt as to what was going on during the last ten days in May" and complains that it "was in direct blatant violation of basic hostage policy approved, reapproved, stated and restated by the President and the Secretary of State." Oakley warned that the negotiations were continuing, they would eventually leak, the Administration would be damaged and he, therefore, urged the department had to stop the initiative.¹³¹ Oakley expected that Platt, a good friend, would deliver the memorandum to Shultz,¹³² but no contemporaneous record confirms that this occurred.¹³³ Oakley recalled that he received no feedback regarding his memorandum and said that, in sending it, he effectively resigned from the Department of State.¹³⁴

129 Quinn Note, 5/28/86, ALV 002338; accord, Oakley, "Agenda" Calendar, 5/28/86, ALW 0043138.

130 Hill's notes of Shultz's "Welcome Home" meeting with Whitehead and Armacost include the following exchange:

Arma [Armacost] -- g008Polecat petered out. No Deal. But it won't go away.

(S) [Shultz] -- What does it take to get this to stop? Pdx [Poindexter] sd [said] Bud [McFarlane] was out there.

Hill Note, 5/30/86, ALW 0053818. This note was not produced to the FBI, Independent Counsel, the Tower Commission or the Select Committees during 1986 or 1987.

131 Memorandum from Oakley to Platt, 6/2/86, ALV 004620-21.

132 Oakley, FBI 302, 1/6/92, p. 2.

133 The Department of State was not able to locate any record indicating Platt's distribution of Oakley's memorandum. (Letter from James E. Baker to John Q. Barrett, 2/11/92, p. 2 (018147), "The document appears to have been handled 'outside the system' in accord with the designation 'eyes only.' Such memoranda are typically not recorded or tracked. They are kept or destroyed at the recipient's discretion and do not become part of the official files of the Department unless the recipient specifically brings them 'within the system.'") During early June 1986, the only substantive Hill and Platt notes regarding Oakley concern the possibility of nominating him to serve as United States Ambassador in Honduras. (Hill Note, 6/3/86, ANS0001478; Platt Note, 6/2/86, ALW 0038142.) Hill made an unexplained note regarding "Iran -- arms sales," however, on the same day that Oakley sent his memorandum to Platt. (Hill Note, 6/2/86, ANS 0001472.)

134 Oakley, FBI 302, 1/6/92, p. 3.

Raphel next warned Shultz. On June 12, he asked Quinn to report up the chain to Shultz three significant new pieces of information: First, Armitage told Raphel about an intelligence report showing that the negotiations were continuing; second, Poindexter had just told Weinberger to "implement the tilt (toward Iran)," which would mean even more weapons sales would follow; third, Assistant Secretary Richard W. Murphy had been given a cryptic message via his counterpart in a third country from Rafsanjani, the speaker of the Iranian parliament, that indicated that the initiative was continuing. Raphel was convinced that the operation would become public and embarrass the President. Quinn's notes state that Raphel requested his views be passed on. He said: "Put [it] all together. Secretary of State must go back to President." ¹³⁵ Quinn passed Raphel's report to Platt.¹³⁶ Hill's notes show that Platt reported it to Hill, who reported it to Shultz.¹³⁷

¹³⁵ Quinn Note, 6/12/86, ALV 002339.

136 Platt Note, 6/12/86, ALW 0038225.

137 Hill Note, 6/13/86, ANS 0001494. This note was not produced to the FBI, Independent Counsel, the Tower Commission or the Select Committees during 1986 or 1987.

Armacost formally warned Shultz about the continuing arms-for-hostages negotiations in an "eyes only" memorandum dated July 2, 1986. Armacost's memorandum, transmitted through Platt, told Shultz that the National Security Council was engaged in "sub rosa provision of arms" to Iran, that "a usually detached (and heretofore skeptical[]) source" was "upbeat" about the prospects for a hostage release in Lebanon the next day, and that word of this deal was getting out, through Israeli official Amiram Nir, to arms dealers who were involved as middlemen, to officials of another government and to newspaper columnist Jack Anderson.¹³⁸ Like Oakley and Raphel, Armacost warned Shultz about both the wrongness of the policy and the inevitability of public disclosure.

138 Memorandum from Armacost to Shultz, 7/2/86, ALV 005024.

Clearly, as of early July 1986, Shultz was on notice that the initiative was not over, regardless of what Poindexter may have told him, and that future arms transfers to Iran were likely. Hill's notes of July 2, 1986 -- the same day as Armacost's memorandum -- show that Hill and Shultz discussed a report of an impending hostage release:

g008Polecat moves again?

1800 EDT delivery of hostg [hostage] in Beirut set for Thursday

(119th such prediction) 139

139 Hill Note, 7/2/86, ANS 0001524. This note was not produced to the FBI, Independent Counsel, the Tower Commission or the Select Committees during 1986 or 1987.

Shultz later told Hill that the

Iran business [is] very uncomfortable. No one mentions it to me -- my own fault. I sd [said] if I didnt need to know dont tell me. Casey said it was dead. Its not.¹⁴⁰

140 Ibid., circa 7/3/86, ANS 0001528. This note was not produced to the FBI, Independent Counsel, the Tower Commission or the Select Committees during 1986 or 1987.

Shortly after Shultz received these warnings, Jenco was released on July 25. Notes from Hill, Platt, Raphel, Quinn and Ross all reflect an understanding that the release was part of an arms deal. The notes show that North told Oakley as much, and that the director of a Defense Department intelligence component called Armacost and told him about intelligence reports that indicated Jenco was released in return for arms. On July 26, the day they received this news, Platt and Armacost each had several conversations with Shultz, some by secure phone.¹⁴¹ And Platt reported the news to Hill on Monday, July 28, 1986.¹⁴²

141 Platt Note, 7/26/86, ALW 0038556-58, ALW 0038560; Armacost, Grand Jury, 3/13/92, pp. 117-20. This note was not produced to the FBI, Independent Counsel, the Tower Commission or the Select Committees during 1986 or 1987.

142 Hill Note, 7/28/86, ANS 0001568. This note was not produced to the FBI, Independent Counsel, the Tower Commission or the Select Committees during 1986 or 1987.

Yet no Department of State official would say that he told Shultz about the arms deal for Jenco's release. Platt and Armacost testified in 1992 that, although it is certainly likely that they told Shultz, neither could recall whether in fact they had done so. Hill, on the other hand, stated that he did not

tell Shultz because he did not believe that the reports were true.¹⁴³ Hill's notes indicate that Hill regarded the reports as an interesting item; they do not in any way indicate that Hill doubted their accuracy.¹⁴⁴ But Hill's notes are replete with rumors that he reported to Shultz. Armacost, Platt, Quinn and Oakley each testified that any rumor or other indication that Jenco was released in return for arms would have been, and in fact was, very significant at the time, particularly given the warnings these officials had given Shultz in June and early July. On the eve of Shultz's congressional testimony in December 1986, they discussed Jenco as one the "[a]reas of greatest vulnerability." ¹⁴⁵ Yet, Platt and Hill did not provide their notes concerning the Jenco release to the Department's legal adviser or investigators.

¹⁴³ E.g. Hill, OIC Interview, 2/24/92, p. 414.

¹⁴⁴ Hill Note, 7/28/86, ANS 0001568. This note was not produced to the FBI, Independent Counsel, the Tower Commission or the Select Committees during 1986 or 1987.

¹⁴⁵ Platt Note, 12/15/86, ALW 0039344. This note was not produced to the FBI, Independent Counsel, the Tower Commission or the Select Committees during 1986 or 1987.

The Aftermath: State Responds to the November 1986 Exposure of Arms Sales to Iran

Shortly after the news of the Iran initiative broke in early November 1986, senior State Department officials began a two-part response. The first, led by Shultz and Hill, was a reexamination of what the department had known and done about the arms sales. The second, led by Shultz and L. Paul Bremer, the new ambassador-at-large for counterterrorism, was an effort to stop any further sales to Iran and to take control of counterterrorism policy from the NSC staff.

According to Hill, Shultz and others at the State Department were surprised to learn in November 1986 that the White House intended to continue its arms-for-hostages efforts even after the 1985 and 1986 sales had been reported in the press.¹⁴⁶ Shultz was determined to try to persuade President Reagan to order an end to further sales.¹⁴⁷

¹⁴⁶ Hill, OIC Interview, 2/21/92, p. 22.

¹⁴⁷ Ibid.

But from early November onward, it became clear that few if any other senior Administration officials shared Shultz's views on how to respond to the growing criticism of the Iran arms sales. While Shultz called for a full public disclosure of the facts, Weinberger and Poindexter advocated saying as little as possible.¹⁴⁸

¹⁴⁸ Weinberger Diary, 11/5/86, ALZ 0040517 ("Called John Poindexter -- Shultz has suggested 'telling all' on attempts to deal with Iran to get their help -- strongly objected[.] I sd [said] we should simply say nothing -- John agrees.").

At a meeting on November 10, 1986, attended by Reagan, Bush, Shultz, Weinberger, Attorney General Edwin Meese III, Regan, Poindexter, Casey and Poindexter's deputy Alton Keel, the rift between Shultz and the others widened. Shultz pressed for assurances that no more arms would be sent to Iran; Reagan in response insisted that all present support his Iran policy and refrain from making public statements.¹⁴⁹ Shultz replied that he supported the President, but could not support the policy.¹⁵⁰ In light of Shultz's position, a press release issued by the White House that day described only "unanimous support for the President." ¹⁵¹

¹⁴⁹ Regan Meeting Notes, 11/10/86, ALU 024685; Keel Meeting Notes, 11/10/86, AKW 047253-55; Hill Note, 11/10/86, ANS 0001764-65.

¹⁵⁰ Keel Note, 11/10/86, AKW 047255; Hill Note, 11/10/86, ANS 0001768.

151 "Statement by Principal Deputy Press Secretary Speakes on the American Hostages in Lebanon," 11/10/86, Public Papers of President Reagan, Vol. II (1986), p. 1539.

Shultz's opposition to additional arms sales continued throughout November 1986. Hill prepared a set of talking points for Shultz to use in an attempt to persuade President Reagan to discontinue the sales.¹⁵² Though Shultz could not remember precisely when he used these talking points with President Reagan, he remembers that talking points of this sort were his "preoccupation" in his efforts to convince Reagan that the shipments were a bad idea.¹⁵³

152 Talking Points, ALW 50420-25.

153 Shultz, OIC Interview, 2/13/92, p. 318. Shultz met twice weekly with President Reagan, on Wednesdays and Fridays. (Ibid., pp. 327-28.) Shultz could not remember whether he went over these talking points with Reagan on Wednesday, November 12, 1986, or at another of these regular meetings. (Ibid., pp. 317, 326-27.)

Shultz appeared on CBS-TV's "Face the Nation" on Sunday, November 16, 1986. When questioned about the Iran arms sales, Shultz voiced his opposition to any further transactions. Asked whether he could speak for the entire Administration on this point, Shultz replied that he could not.¹⁵⁴

154 Shultz, Face the Nation Transcript, 11/16/86, p. 12, ALW 0050352.

On November 20, 1986, Shultz met with President Reagan to go over a list of erroneous assertions Reagan had made during a nationally televised press conference the previous evening. With Reagan present, Shultz tried to convince the President that the public saw the Iran arms sales as arms-for-hostages exchanges. Shultz specifically mentioned the November 1985 HAWK shipment, which McFarlane had described to Shultz as arms-for-hostages at the time the shipment took place. Reagan replied that he knew about the November 1985 transaction, but that it was not an arms-for-hostages deal.¹⁵⁵

155 E.g. Hill Note, 11/22/86, ANS 0001881. Hill's notes also indicate that Shultz and President Reagan discussed this same subject the previous day, at their regular Wednesday meeting: "Bud [McFarlane] once told me [Shultz] about a plane of arms that wd [would] go if hostg [hostages] released -- not if not. P [President Reagan] knew of this -- but it didn't come off." (Hill Note, 11/19/86, ANS 0001852.)

That same day, Sofaer took action to remove what he believed to be a false statement regarding the November 1985 HAWK shipment from the testimony that Casey was to give to the intelligence committees on Friday, November 21, 1986. By late afternoon on November 20, the draft testimony stated that no one in the U.S. Government knew until early 1986 that the November 1985 flight carried missiles instead of oil-drilling equipment.¹⁵⁶ Sofaer knew this was false based on Hill's note of McFarlane's November 19, 1985, call to Shultz in Geneva, during which McFarlane outlined the upcoming shipment of HAWK missiles.¹⁵⁷ Through a series of phone calls to senior Justice Department officials, Sofaer alerted the attorney general to Hill's November 19, 1985, note, which was written proof that Casey's draft testimony contained a false statement about the November 1985 HAWK shipment.¹⁵⁸ Late in the evening on November 20, 1986, Sofaer received confirmation from Assistant Attorney General Charles Cooper that the false statement in Casey's testimony regarding November 1985 had been corrected.¹⁵⁹

156 Sofaer, Select Committees Deposition, 6/18/87, p. 43.

157 Hill Note, 11/19/85, ANS 001200. Hill mistakenly wrote "Tuesday, November 18" on the preceding page of notes. Earlier notebook pages confirm, however, that Hill made the notes on pages ANS 001199-1200 on Tuesday, November 19, 1985.

158 Sofaer, Select Committees Deposition, 6/18/87, pp. 38-50.

159 Ibid., pp. 49-50.

On Friday, November 21, 1986, the day of Casey's testimony, President Reagan asked Meese to conduct an inquiry into the Iran arms sales and to report his findings at a senior advisers' meeting scheduled for Monday, November 24, 1986.¹⁶⁰ As part of this inquiry, Meese and Cooper interviewed Shultz on Saturday morning, November 22, with Hill present. Hill and Cooper took extensive notes of the interview.¹⁶¹ The November 1985 shipment was high on the list of items discussed. Shultz told Meese that President Reagan had recently acknowledged to Shultz that he (Reagan) knew about the November 1985 shipment.¹⁶² Meese asserted later in the same interview that President Reagan had not known about the November 1985 HAWKs shipment, and that if Reagan had known and had not told Congress, it would be a violation of law.¹⁶³

¹⁶⁰ Meese, Select Committees Testimony, 7/28/87, pp. 224-25.

¹⁶¹ Cooper Notes, 11/22/86, ALV 71839-42; Hill Notes, 11/22/86, ANS 001882-89.

¹⁶² Hill Note, 11/22/86, ANS 001883.

¹⁶³ Hill Note, 11/22/86, ANS 001888.

Shultz's effort to get control of the Iran initiative seemingly failed in a senior advisers' meeting on November 24, attended by President Reagan, Vice President Bush, Regan, Shultz, Weinberger, Casey, Poindexter and Meese. At this meeting, Meese denied Reagan's knowledge of the 1985 HAWK shipment. According to Weinberger's notes of the meeting, Meese advised the group that the November 1985 HAWK shipment was "[n]ot legal because no finding," but "President g008not informed." ¹⁶⁴

¹⁶⁴ Weinberger Meeting Notes, 11/24/86, ALZ 0040669MM (emphasis in original).

Events and revelations overtook the internal Administration debate on continuing the arms sales. On Tuesday, November 25, 1986, Meese announced during a nationally televised press conference that proceeds from the Iran arms sales had been siphoned off to supply weapons for the contras. The furor over this diversion of funds became the focus of congressional investigators. In the aftermath of the disclosure of the diversion, President Reagan handed over to Shultz and the State Department the responsibility for future dealings with Iran.¹⁶⁵

¹⁶⁵ E.g. Shultz, SSCI Testimony, 12/16/86, p. 31.

Other matters required Shultz's attention during this period. He learned on December 6, 1986, that U.S. Ambassador to Lebanon John Kelly had circumvented the State Department chain of authority by having multiple unreported contacts with McFarlane and North during the second half of 1986. In August 1986, Kelly had met with McFarlane, who briefed him on the Iran arms sales. Then, between October 30 and November 4, 1986, Kelly had numerous conversations with North and retired Air Force Maj. Gen. Richard V. Secord on hostage-related arrangements with Iran. During the same period, Kelly sent and received several "back channel" messages to and from Poindexter at the White House. After discussing the matter with President Reagan, Shultz summoned Kelly back to Washington and ordered him to follow the chain of authority at all times in the future.¹⁶⁶

¹⁶⁶ Ibid., pp. 29-31.

Despite the public uproar over secret U.S. dealings with Iran, contacts with representatives of Iran continued on December 13, 1986, with Shultz's knowledge. CIA operative, George Cave, accompanied by Charles Dunbar of the State Department, met with Iranian representatives in Frankfurt, West Germany. Shultz allowed the meeting to proceed with the understanding that the

Iranians would be told that American hostages must be released unconditionally and that no more weapons could be sold until it negotiated an end to its war with Iraq and stopped supporting terrorism.¹⁶⁷

¹⁶⁷ Ibid., p. 31.

Dunbar called Shultz after the meeting, however, to report that the Iranians -- with Cave's apparent agreement -- were insisting on adhering to a formal but unsigned nine-point plan worked out earlier by North, Secord and Albert Hakim.¹⁶⁸ In return for the eventual release of all American hostages in Lebanon, the plan envisioned more arms shipments to Iran, as well as U.S. efforts to cause the release of the Dawa prisoners held by Kuwait.¹⁶⁹ Shultz alerted President Reagan to the still-extant nine-point plan. Reagan authorized Shultz to ignore "any unauthorized understandings that may have been reached," and to proceed according to Shultz's understanding outlined in the preceding paragraph.¹⁷⁰

¹⁶⁸ Ibid., pp. 31-32.

¹⁶⁹ Ibid., pp. 32-33.

¹⁷⁰ Ibid., p. 33. On the morning of his December 16, 1986, SSCI testimony, Shultz learned that Cave had an additional meeting with one of the Iranians after Dunbar left Frankfurt. Shultz was angry, and told SSCI he would work to remove Cave and the CIA from further contacts with Iran. (Ibid., pp. 35-36.) Cave portrayed the additional meeting as Iranian-initiated, brief and inconsequential -- and stated that he relayed to State the information he received at the second meeting. (Cave, Select Committees Deposition, 9/29/87, pp. 181-82.)

How Shultz's Incorrect Testimony Was Prepared

The admirable role that Shultz and others in the department (particularly Bremer and Sofaer) played in November 1986, both in stopping the initiative and in urging disclosure of the events of 1985 and 1986, makes the misstatements in Shultz's testimony difficult to understand. Unlike the false testimony of Poindexter, Casey and Weinberger, the misstatements in Shultz's testimony do not fit neatly into the framework of protecting the President. To the contrary, on perhaps the most significant subject on which the others gave false testimony to protect the President -- the November 1985 HAWK shipment -- Shultz openly admitted being informed in advance and suffered the wrath of Administration loyalists as a result.

Shultz's December 1986 Testimony

Shultz gave his first comprehensive testimony about his role in the Iran initiative to the Senate Select Committee on Intelligence in closed session on December 16, 1986. Hill prepared the first draft of an opening statement to be used in the testimony, based on a chronology binder he had assembled. Hill then gave the draft statement and the binder to Sofaer for review. Shultz read the prepared statement.¹⁷¹

¹⁷¹ In his initial Iran/contra testimony, which occurred in public session, Shultz told the House Committee on Foreign Affairs that he was ready to tell "everything I knew at the time about our sales of arms to Iran" but would only be able to provide the "classified details of my knowledge and activities . . . based on documents that I have, cable traffic and notes that were taken at the time," in a closed session of the Committee. (Shultz, HFAC Testimony, 12/8/86, pp. 58-59, 66.) Although Shultz's testimony in the December 8 public session concentrated "on looking forward," (Ibid., p. 59), he provided a brief summary concerning his knowledge of arms transfers to Iran during 1985 and 1986, (Ibid., pp. 66-67.) Shultz also told the committee that he had "already made all the information at my disposal available to the FBI." (Ibid., p. 58.)

Shortly before this testimony by Shultz, Hill had given a copy of the documents in the binder to the FBI. Both Sofaer and the FBI agent who received the copy understood that the binder included all of the entries in Hill's notebooks that related to the Iran initiative.

They were wrong. In putting the chronological binder together, Hill omitted more Iran-related notes than he included. Among the omitted notes are nearly every one of his notes referred to in this chapter, as itemized above. Hill's omissions were consistent with Shultz's incorrect testimony in December 1986 and thereafter.

There is strong evidence that Hill intended to mislead. First, Sofaer and the senior FBI agent independently understood that the documents they received from Hill included all of his notebook entries regarding the Iran initiative.¹⁷²

¹⁷² Sofaer was not present when Hill gave the agent the documents on December 4, 1986, and the agent and Sofaer never discussed the documents or Hill's statements about the documents. It is unlikely that the agent and Sofaer would independently make such a significant mistake, unless Hill gave them the wrong impression that the notes were complete.

Second, the FBI agent who interviewed Hill and received his documents, pursuant to the attorney general's request on December 4, 1986, was, by arrangement of the director of the FBI, the senior agent on the Iran/contra investigation. The agent was working on a criminal investigation of the highest levels of Government that potentially implicated the survival of the Reagan presidency. The agent met with Hill to receive his documents, because Hill insisted on dealing with the senior FBI agent involved. Hill made no statement suggesting that he had more relevant material than he was producing, or that for any reason his production was incomplete. If Hill had indicated in any way that he had not produced all of his relevant material, the agent would have demanded compliance and, if necessary, deployed assisting agents to review Hill's notes in their entirety.¹⁷³

¹⁷³ See generally, Memorandum from FBI Special Agent Michael S. Foster re: Coulson/OIC Meeting, 3/5/92, 027774.

Third, Sofaer and other State Department attorneys spent a significant amount of time preparing Shultz to testify to Congress in 1986 and again in 1987. Frequently they worked with Shultz in Hill's presence. If they had received any indication that there might be additional relevant notes in Hill notebooks, they would have done whatever work it took to find them.

Fourth, the Department of State attorneys who worked most closely with Shultz, Sofaer and Hill in preparing Shultz to testify stated that, throughout their preparation process, they all -- including Hill -- treated the binder as "the Bible" of Shultz's knowledge about the Iran initiative.¹⁷⁴ Thus, Hill well knew and perpetuated their misperception that the binder was comprehensive.

¹⁷⁴ Sofaer, OIC Interview, 4/6/92, p. 42; Kozak, FBI 302, 3/4/92, pp. 5, 7.

Fifth, when Shultz was first interviewed in February 1992 after being advised of his status as a "subject" of the OIC investigation, and before he was confronted with the evidence that his testimony was wrong, Shultz defended that testimony by asserting that he was confident that it was correct because Hill had gone over and over the notebooks, pulled out everything about the Iran initiative, and given it to Sofaer and the FBI.¹⁷⁵

¹⁷⁵ Shultz, OIC Interview, 2/12/92, pp. 6-13; cf. Hill Note, 12/15/86, ANS 0002046 ("(S) [Shultz] - . . . CH [Charles Hill] [was] Quick off the mark to go over the papers for hours.").

Finally, there is significant evidence, discussed separately below, that Platt and Hill colluded to withhold information from investigators and Sofaer. This evidence indicates a deceptive intent by Hill in his dealings with the FBI and Sofaer.

Both Hill and Shultz attempted to blame Sofaer and the Office of the Legal Adviser for Shultz's erroneous testimony. This attempt to lay the blame elsewhere is unworthy. Shultz and Hill, not Sofaer, had reason to know what Hill's notes would contain. They formulated the "three phases" characterization of Shultz's arms sales knowledge in the chronology that became his prepared statement.¹⁷⁶ On December 7, 1986, it was Hill who objected that Sofaer had, upon reviewing Hill's draft of the opening statement that Shultz was to make the next day before the House Committee on Foreign Affairs, "expanded your [Shultz's] record to include [what Sofaer believed to be] virtually all the facts." Hill's own notes document his argument with Sofaer that Shultz's testimony should contain "characterizations and statements on behalf of Shultz:"

176 E.g. Hill Note, 12/7/86, ANS 0001992 ("(S) [Shultz] -- One method of summary is 3 periods."); *ibid.*, ANS 0001993-94 ("(S) -- . . . I need a structure in the testimony that enables me to handle Q [questions]. -- First phase. . . -- 2 Phase starts w [with] Jan [January 7, 1986] mtg [meeting]. . . -- Then 3d period up to Jacobsen release where my record essentially blank.") (emphasis in original).

(CH -- Abe [Sofaer] is depriving (S) [Shultz] of the ability to make a stmt [statement] saying how he saw the scene that in any way defends his own interest.

i.e.] Abe -- and (S) -- both saying that anythg [anything] explanatory is exculpatory + so shdnt [shouldn't] be used.

-- Abe is playing to g008(S)'s weakness like ON [Oliver North] played to g722Reag P [President Reagan's] weakness and Ledeen played to McF's [McFarlane's]

-- So (S) can be induced to make g008no stmt [statement] in his own behalf.

* * *

CH [Charles Hill] yells -- gets

characterizations +

stmts in g722behaf

behalf of g722self (S) 177

177 *Ibid.*, 12/7/86, ANS 0001995 (emphasis in original).

Shultz's July 1987 Testimony to the Select Committees

Sofaer and his staff prepared Shultz's July 1987 testimony before the Select Committees with an eye toward the "whole picture" of Iran/contra -- not to a more narrow view such as Shultz's role or what Shultz knew.¹⁷⁸ An attorney on Sofaer's staff, Elizabeth Keefer, collected and organized documents from other agencies relating to both the Iran arms sales and the contras.¹⁷⁹ Keefer created back-up briefing books containing chronologies relating to both the arms sales and the contras.¹⁸⁰

178 Keefer, FBI 302, 3/10/92, p. 2.

179 *Ibid.*

180 *Ibid.*

Keefer was certain she spoke with Hill about these chronologies, which she recalled were cleared by Shultz's office prior to being released.¹⁸¹ Keefer viewed the chronologies as important: They were a

list of events that were stipulated to by Congress and the State Department, and were designed both to facilitate and limit the questioning of Shultz by committee members.¹⁸²

¹⁸¹ Ibid., p. 3.

¹⁸² Ibid.

Keefer and others met with Shultz on several occasions to go over his upcoming testimony. These meetings were attended by Shultz, Hill, Sofaer, Kozak and Keefer. Hill's notes were relied upon as Shultz's memory of events.¹⁸³ They were "the Bible." ¹⁸⁴

¹⁸³ Ibid.

¹⁸⁴ Kozak, FBI 302, 3/4/92, pp. 5, 7.

Sofaer confirmed Keefer's recollection that the preparation of Shultz's July 1987 testimony was intended to be thorough and definitive. Sofaer stated:

[T]he most comprehensive collection of information that we engaged in was the last one for the joint committee. . . . That was the last and I think most authoritative. . . . [I]n those answers there would be reflected every bit of information that was brought to our attention.¹⁸⁵

¹⁸⁵ Sofaer, OIC Interview, 2/20/92, p. 74.

Sofaer's staff took a team approach to preparing sample answers for Shultz:

It wouldn't be just one person. Everybody -- this was like institutional testimony. [Keefer] worked on it, [Kozak] worked on it, everybody went over every answer and compared it to the documents so that the answer would be accurate.¹⁸⁶

¹⁸⁶ Ibid., p. 92.

Sofaer confirmed Hill's significant participation.¹⁸⁷

¹⁸⁷ Sofaer, OIC Interview, 4/6/92, pp. 65-66.

Possible Collusion by Platt and Hill

Several of the most obviously significant notebook entries that Hill did not produce correspond directly to particular entries Platt also failed to include in the set of relevant notes he compiled in early December 1986 at the request of the legal adviser's office. It is unlikely that Platt and Hill each, acting independently, would have omitted notes containing the same significant information.

The parallel omissions of Hill and Platt are the best evidence that the two acted together. Foremost among the joint omissions are Platt and Hill's July 1986 notes stating that the Jenco release "was [a] result of Polecat." ¹⁸⁸

¹⁸⁸ Hill Note, 7/28/86, ANS 0001568; Platt Note, 7/26/86, ALW 0038555.

First, on the same page of notes about Jenco that Platt did provide to the legal adviser, he redacted (that is, photocopied his full note and then cut off before recopying) the following passage: "release of Hostages Jenco. Result of Polecat negotiations." ¹⁸⁹ He did not provide any part of the next page in his notes, which contains the following statement:

¹⁸⁹ Ibid.

-- Price: ITOW, side winders, 155 mm ammo. Weir was earnest money. . . .

-- Armacost calls [Head of Defense Department component] -- real negotiation had been whether it was 1 or 2. 24 million -- 4 mil [million] laundered through Israel -- rest is equipment, for which, he implied, they are paying.¹⁹⁰

¹⁹⁰ Ibid., ALW 0038556.

Second, by the time Hill on November 8, 1986, began reviewing his 1985 and 1986 notebooks for information, he was aware of press reports alleging that Jenco had been released as part of a U.S. arms deal with Iran.¹⁹¹

¹⁹¹ On November 6, 1986, Hill, who was in Europe with Shultz, made a notebook entry regarding that morning's Washington Post story:

Nov 6 g008Wash Post Pincus: 3 American Hostages Released During

14 Months of Negos [Negotiations] + shipments to Iran.

-- channel opened at Israeli initiative

g008The Story -- McF [McFarlane] met in London w [with] Kimche

g008is -- McF then met Iranians in Eur [Europe] + Iran

H) g008out -- 1st US/Israeli shipment of arms was Sept 85 --

+ g008Weir Released

-- 2d was July 86 + g008Jenco released

-- 3d was this month, + Jacobsen released.

(Hill Note, 11/6/86, ALW 0056323, emphasis in original.) The next day, on a flight from Paris to Vienna, Charles Redman, the assistant secretary of state for public affairs, told Shultz, Hill and others that ``most [media] stories say 3 shipments, each related to 1 hostg [hostage]. And in meantime 3 more hostg taken." Shultz replied that, if these stories were true, ``Iran has made chimps out of us." (Hill Note, 11/7/86, ANS 0001732.)

Third, on a notebook page dated November 10, 1986, Hill referred back to his July 1986 note about Jenco's release:

g008from CH [Charles Hill] notebooks

7/28 g008Jenco release (July) was Polecat \$24 m[illion] in wpns [weapons] next will be [Terry] Anderson

8/11 Jack Anderson on it.

9/16 Ledeen = CH [Charles Hill] -- wants to tell (S) [Shultz] what's going on at Casey's request

9/17 Casey = (S) Nephew of Rafsj [Rafsanjani] will be brought in. Has infor [information] on Iran. Only P [President Reagan] knows ¹⁹²

¹⁹² Ibid., 11/10/86, ANS 0001756.

Hill, after the public revelations had begun, located the note he had made several months earlier, and then withheld the note and the summary.¹⁹³ The note showed that he had been told at the time of the Jenco release in July 1986 that it had been part of a large weapons deal, and that he regarded this entry as particularly noteworthy. Hill's November 10 note suggests that he made an affirmative decision not to include the July 28, 1986, Jenco note in the chronological binder of relevant documents that he was compiling.

¹⁹³ Hill's November 10 note also refers back to three other entries relating to arms shipments to Iran that Hill had located in his earlier notebooks: his August 11, 1986, note (labeled "Polecat") quoting Jack Anderson's column in that morning's Washington Post, (Hill Note, 8/11/86, ANS 0001591); Hill's September 16, 1986, notes of a telephone call from Michael Ledeen, an NSC consultant who said he wanted to brief Shultz at Casey's request about what the United States and Israel "have been doing" with Iran, (Hill note, 9/16/86, ANS 0001610); and Hill's September 17, 1986, note of Shultz's secure telephone call to Casey, who told Shultz that United States representatives would be meeting with Rafsanjani's nephew, (Hill Note, 9/17/86, ANS 0001613.) Of these three notes, only the top half of Hill's September 16, 1986, note regarding Ledeen was produced to the FBI, Independent Counsel, the Tower Commission or the Select Committees during 1986 or 1987; the second half of Hill's Ledeen note, which he did not produce, states:

-- Involved at outset with the Israeli (Kimche) approach on getting us into rel. [relationship] w[ith] Iran. -- for intel [intelligence], then for hostg [hostages]. McF [McFarlane] picked up on it.

-- (S) [Shultz] opposed Polecat op [operation] + told P [President Reagan] -- so didnt want to be part of it or informed about it. This all at the very start.

The awareness of Anderson's column, the full substance of Ledeen's call to Hill and Casey's report to Shultz regarding the so-called second channel also were not addressed by Shultz in his December 16, 1986, testimony before the Senate Select Committee on Intelligence, or in the "Iran Chronology I" that he presented to the Select Committees in July 1987.

There is more to this Hill note. In 1987, Iran/contra investigators asked the department for a complete set of Hill's November-December 1986 "post-revelation" notes. Hill supposedly complied with this request by giving the Office of the Legal Adviser a set of photocopies that Hill described as his complete notes for November 3-December 31, 1986, and the legal adviser provided the copies to Independent Counsel and the Select Committees. Although this set of Hill's unnumbered notebook pages included 24 pages of notes that he had created on November 10, 1986, the set did not include the above-quoted single page, which referred back to Hill's July 28, 1986, note regarding an arms-for-Jenco deal. In other words, Hill failed to produce the page that might have revealed that his chronology binder was not the comprehensive set of notes that the FBI and the legal adviser believed it to be.

On December 15, 1986, the eve of Shultz's testimony before the Senate Select Committee on Intelligence, there is a Platt note that shows that he and Hill discussed their concerns about the Jenco issue.¹⁹⁴ By then, Platt and Hill had gone back through their notes to identify relevant material. The note shows that they discussed the July 1986 Jenco release as one of the "[a]reas of greatest vulnerability." ¹⁹⁵ They knew Shultz was going to -- and did -- testify that, from May to November 1986, he had no indications that any arms were shipped to Iran, yet both Platt and Hill's notes showed that they and Armacost, who spoke with Shultz on a daily basis, had been told about a weapons deal that produced the Jenco release.

¹⁹⁴ Platt Note, 12/15/86, ALW 0039344.

¹⁹⁵ Ibid.

The Platt notebook entry appears at the end of the day on December 15, 1986. Hill's notebook shows that, at 7:00 p.m. that evening, he and Platt were discussing Iran/contra events.¹⁹⁶ Both sets of notes show that they discussed Congress's request for testimony from Kelly, the ambassador to Lebanon.¹⁹⁷ Platt's notes then continue as follows:

196 Hill Note, 12/15/86, ANS 0002048.

197 Ibid. ("g008Kelly + g008Congress. Standing invitation for him to go up. We g722are (NP [Platt]) are saying he can't go until issue resolved. They say ok, but don't let him go back w/o [without] seeing us. This will blow up. -- leak that P [President Reagan] says admonish, but (S) [Shultz] wants to fire. -- Evans + Novak will do a column. -- WH [White House] will realize JK [Kelly] a hostage to release/clnc [clearance] of the instructions.") (original emphasis); Platt Note, 12/15/86, ALW 0039344 (" -- Kelly + the Congress -- ").

Areas of greatest vulnerability.

-- Jenco -- released well before Jacobsen. How did he think that had occurred.

What did you think.

-- Why did you avert your gaze.¹⁹⁸

198 Ibid.

The notes appear to reflect concerns about possible questions Shultz might confront in the next day's testimony before SSCI. But Hill and Platt each professed not to remember this conversation when they were shown Platt's contemporaneous note.¹⁹⁹ Neither attempted to offer an innocent explanation. Hill, who was the first to be confronted about the conversation and had never seen the Platt note, was visibly shaken. Platt, who had spoken to Hill and reviewed the note privately before he was questioned about it by the OIC,²⁰⁰ simply stated, "I have no explanation for this." ²⁰¹

199 Hill, OIC Interview, 2/24/92, pp. 386-88; Platt, Grand Jury, 3/27/92, pp. 138-40.

200 Platt, Grand Jury, 3/27/92, pp. 23-24.

201 Ibid., p. 130.

Platt and Hill made other significant parallel omissions in their note productions to investigators. Contrary to Shultz's repeated testimony that he was not told about a proposed trade of HAWK missiles for hostages until McFarlane told him in Geneva on November 18 or 19, 1985, when it was too late to stop it,²⁰² Platt and Hill's notes show that Shultz was informed on November 14, 1985, before he left from Washington. Platt's note recorded the basic information:

202 E.g. Shultz, SSCI Testimony, 12/16/86, p. 17; accord, generally, Shultz, HFAC Testimony, 12/8/86, p. 66.

-- Small mtg [meeting] -- P [Armacost],

D [Whitehead], CH [Hill], S [Shultz]

-- 600 hawks 200 phoenix missiles for

Iran -- Bud [McFarlane] asks Cap

[Weinberger].²⁰³

203 Platt Note, 11/14/85, ALW 0036734.

Hill's note, which he marked with a star and his symbol for "interesting" information, recorded:

g008after

g008Arma [Armacost] = [meeting with] (S) [Shultz] in last few days Bud [McFarlane] asked Cap [Weinberger] how to get 600 Hawks + 200 Phoenix to Iran. Its highly illegal. Cap wont do it Im sure. Purpose not clear. Another sign of funny stuff on Iran issue. PDX [Poindexter] not levelling w [with] me. Framed in term of long-term rel. [relations] w mod. [moderate] els [elements] in Iran.204

204 Hill Note, 11/14/85, ANS 0001187.

Second, Platt and Hill also failed to produce their respective notes of January 4, 1986, which show that Poindexter briefed Shultz on a January 2, 1986, meeting with Israeli counterterrorism adviser Amiram Nir and the latest proposal to trade arms for hostages. Platt's note reads:

Mtg [Meeting] II w [with] S [Shultz] 1140.

Another issue. Israeli -- Iranians -- issue not dead. Peres has 2 track approach -- comes to me on some issues -- goes to NSC for others.205

205 Platt Note, 1/4/86, ALW 0037024.

Hill's note recorded the detailed discussion that occurred:

g008(S) [Shultz] = Arma [Armacost] POLECAT

Pdx [Poindexter] sd [said] NiR came to see him to revive hostg [hostage] idea. Wd [Would] id [identify] Hizbollah prisoners held by Lahad who not bloody + offer to release -- and 3000 TOWS for hostg [hostages].

I sd [said] all same probls [problems] as before. A payment. Blows our policy. Isr [Israel] has an interest in leaking such a deal.

So its not dead. Peres [Shimon Peres, Israeli Prime Minister] comes to me on some things + to NSC on others.

g722Neww Newsweek had the McF [McFarlane]-Kimche meetings but didnt run it. Kimche seems to have leaked it deliberately.

I think Pdx [Poindexter] was negative twd [toward] Nir.206

206 Hill Note, 1/4/86, ANS 0001255-56.

Platt and Hill also did not produce their respective notes of February 21, 1986, which show Shultz's knowledge of an impending arms-for-hostages trade and his belief that weapons had previously been delivered to Iran. Each set of notes is lengthy and detailed. Platt wrote the following:

Hostage deal. Have not wanted to know much. Getting g722fuc screwed up to a fare the [sic] well

-- Israelis have screwed up

-- Jack Anderson has wind

-- g008turnover to take place this weekend

-- French have paid penalty -- have not gotten people out. Spaniards got a deal.

-- Asked PDX [Poindexter] to shut it down if it doesn't work.

-- Agreed that in respect to Qs [questions] CT [State's Office of Counterterrorism] et al stonewall, but we will get g722cruciffee crucified.207

207 Platt Note, 2/21/86, ALW 0037404-05.

Hill's notes, which correspond exactly, identify Shultz as the speaker and document his belief that weapons had been delivered by February 1986 in an effort to free the hostages in Lebanon:

g008(S) [Shultz] = CH [Hill], NP [Platt]

(S) -- hostage deal getting screwed up. Jack Anderson is on to it. Turnover supposed to be g008this weekend. I pleaded w [with] Pdx [Poindexter] that if not pls [please] shut it down. Fr [France] got stung. Spaniards too. I think we have already turned over some wpns [weapons].

At F4 [the family group lunch] we agreed no comment on any Qs [questions]. But we will get crucified.208

208 Hill Note, 2/21/86, ANS 0001321.

Platt and Hill also did not produce their respective notes of April 3, 1986, which show that Poindexter told Shultz that an Iranian intermediary (Ghorbanifar) was in the United States at that time to buy TOW missiles, and of the expectation that the hostages would be released during McFarlane's trip to Iran. Platt recorded much of the detail until his notetaking stopped in mid-sentence:

-- Asked PDX [Poindexter] about Iranian caper -- man he dealing with is in town today -- supposed to have money up front for tows -- if they get the money -- will next go McF [McFarlane] mtg [meeting] w [with] inside Iranians -- + hostages will be released during mtg.

S [Shultz] g722Said horrified -- said he horrified -- everyone petrified of Iran. If it leaks out that we helping -- there'l [sic] 209

209 Platt note, 4/3/86, ALW 0037725. This note was not produced to the FBI, Independent Counsel, the Tower Commission or the Select Committees during 1986 or 1987.

Hill's note, which appears at the top of a notebook page, is consistent:

g008Polecat VI Money man in town w

[with] \$ [money] to pay

for TOWS. If he pays, They'll

set the McF [McFarlane] mtg [meeting]. During that mtg our hostg [hostages] supposed to be released. I [Shultz] sd [said] this all has me horrified. Region petrified that Iran will win + we are helping them. He [Poindexter] said TOWS are defensive wpns [weapons]. I sd [said] ``so's yr [your] old man." 210

210 Hill Note, 4/3/86, ANS 0001399. This note was not produced to the FBI, Independent Counsel, the Tower Commission or the Select Committees during 1986 or 1987.

Unlike Hill, Platt's position was that he meant to provide all relevant notes to the legal adviser. Platt explained the omissions as the result of innocent oversight. Hill, on the other hand, explained that he never made a comprehensive review of his notes and that he cannot understand why so many people -- Shultz, Sofaer, other Department of State lawyers, the senior FBI agent and Iran/contra investigators -- had such a wrong idea. He only went through his notes, he explained, to find the notes that documented the things that Shultz independently remembered in early November 1986. He did not go through the notes, he said, to find things that Shultz did not remember.

Confronting Shultz, Hill and Platt With the Evidence

Questioning Shultz

In his December 16, 1986, appearance before SSCI, Shultz described his knowledge of events relating to arms shipments to Iran. Just six weeks after public exposure, this testimony was Shultz's first opportunity to testify in a closed classified setting regarding those events. Shultz testified, under oath, that his opening statement

represents an effort on my part . . . to research out what I knew about all this. . . .

I propose to proceed chronologically. My purpose here is to pass on the information in my possession. I strongly agree with the President that the sooner all available information is made available to Congress through appropriate investigating bodies and to the public, the sooner we will put all this behind us. . . .

I rely heavily in this review on documentary materials. My recollection of these events is far from perfect, especially because . . . my information and participation was sporadic and fragmentary. Nor have I consulted with any other participant in these events, so as to avoid any appearance of impropriety.

As the evidence unfolds in public, my recollection of certain events has from time to time been refreshed. This will certainly continue to happen. So I cannot claim to be presenting a totally complete and accurate recitation. On the other hand, I can and do promise as full and accurate a recitation as my present recollection permits. Moreover, by sticking to the written materials that reflect what information was available to me when the relevant events occurred, I feel reasonably confident that the facts you receive from me are accurately reported.²¹¹

²¹¹ Shultz, SSCI Testimony, 12/16/86, pp. 4-5.

Chairman Durenberger interrupted to ask Shultz ``to just share with us your habit of keeping notes and how you have refreshed your recollection on this." <sup>212</sup> Shultz identified Hill as his notetaker and testified that ``we have researched through these [notes] very painstakingly to see what we can find on this subject." ²¹³

²¹² Ibid., p. 18.

²¹³ Ibid., p. 19. Later, in response to a question from Senator Cohen, Shultz stated his reluctance to produce copies of his notes, but he assured the Committee that ``the notes have been turned over to the FBI for investigative purposes." (Ibid., p. 102.)

In 1991, the OIC determined, after reviewing a full set of Hill's notes regarding Iran that they were inconsistent with Shultz's testimony about his own lack of knowledge, that many of these notes had not been produced in response to earlier document requests, and that Platt had not produced corresponding notes of many of the same events.

Shultz voluntarily came to Washington in February 1992 for an interview with the OIC, lasting over a day and a half.²¹⁴ These sessions focused on the contrast between Shultz's testimony asserting his

lack of knowledge of arms shipments during the so-called "three phases" and the contemporaneous notes.²¹⁵ Over the course of the interviews, Shultz's attitude evolved from combative to contrite. In the end, after confronting the evidence contained in contemporaneous notes created by his closest aides, he repeatedly admitted that significant parts of his testimony to Congress had been completely wrong. He denied that these errors had been deliberate, stating that he always had testified to the best of his recollection. He also initially denied that relevant notes were deliberately withheld from Independent Counsel or the Select Committees and he defended Hill's integrity.

²¹⁴ At the time it requested the interviews, the OIC advised Shultz that, based upon information that had not been provided during 1986 and 1987, his status had changed from prospective witness to a subject of the investigation. Shultz subsequently retained counsel, who worked with him and with Hill prior to the interviews. Shultz's counsel was provided access to all of Shultz's prior statements and it was agreed that the interview would be limited to questioning about Shultz's December 16, 1986, testimony in closed session before SSCI.

²¹⁵ Because the Department of State notes that were obtained for the first time by Independent Counsel in 1990 and 1991 were not used as trial evidence or otherwise publicized, they are largely unknown publicly. As recently as May of 1993, for example, Arthur L. Liman, who served as chief counsel to the Senate Select Committee in 1987, testified that Congress "had the full story from Secretary Shultz." (Liman, Senate Governmental Affairs Committee Testimony, 5/14/93, NEXIS Transcript, p. 22; accord Prepared Testimony of Arthur L. Liman to the Committee of Governmental Affairs of the United States Senate, 5/14/93, pp. 12-13, "the House and Senate Committees . . . served demands . . . for any notes or diaries . . . relating to Iran-Contra. . . . [Shultz] made available to us the relevant excerpts of his diaries.") This view is, by Shultz's own admission, mistaken.

At the start of the 1992 interview, before he had reviewed significant Department of State notes or been informed that many of them had not been produced to investigators in a timely fashion, Shultz vigorously defended the completeness of Hill's document production to Iran/contra investigators ²¹⁶ and, consequently, the accuracy of Shultz's own testimony. He said he had "very painstakingly" researched the notes and provided "the information in [his] possession" regarding "what [he] knew." Shultz stated that, although he had not participated personally in the document-review process during late 1986,²¹⁷ he recalled that Hill "spent several hours on a couple of days going through" his notebooks.²¹⁸ Shultz said that, "[i]n terms of time allocation, busy as we were, that was a big amount of time to allocate." ²¹⁹ He minimized the nature of his directive that Hill review his notebooks and extract relevant notes in preparation for the December 1986 testimony.²²⁰ Shultz also suggested at times that the responsibility to make relevant information available was that of Sofaer and the Office of the Legal Adviser, not Shultz (or, implicitly, Hill).²²¹

²¹⁶ Shultz stated that, because it had not occurred to him in 1986 that Platt's notes could contain information independent of Hill's notebooks, he was not referring to Platt's notes when he testified that he had turned over all of his records in December 1986. (Shultz, OIC Interview, 2/12/92, p. 14.)

²¹⁷ Shultz, OIC Interview, 2/12/92, p. 8.

²¹⁸ Ibid., p. 7.

²¹⁹ Ibid., pp. 7-8. Beginning with this statement, Shultz repeatedly tried to excuse Hill's omissions by stating that Hill was too busy with his regular job responsibilities to identify the entries in his notebooks that were relevant to Iran/contra. (See, e.g., *ibid.*, p. 13, "the process of gathering information . . . wasn't something that Mr. Hill could do", pp. 14-15 "in the time he had available", p. 19 "Bear in mind we were struggling hard with our operational duties", pp. 24-25 "Mr. Hill . . . did his best in the time he had available".)

²²⁰ E.g. Shultz, OIC Interview, 2/12/92, p. 10. ("There wasn't any necessity to try and pin down something in a highly specific way").

221 E.g. *ibid.*, p. 11 ("this was basically something that I turned over to the legal adviser, Judge Sofaer, and his associates"), pp. 12-13, 31.

Shultz primarily blamed the investigators for not reviewing Hill's complete notebooks, which Shultz claimed were readily available to anyone who was interested.²²² Yet, Hill's notebooks themselves demonstrate that Shultz always was reluctant to permit outsiders to review this comprehensive and "remorselessly precise record" of Shultz's private comments and personal reflections and communications with the President and others, including remarks regarding Vice President Bush²²³ and Weinberger.²²⁴

²²² E.g. *Ibid.*, pp. 14-15 ("The effort of Mr. Hill in the time he had available was to find everything in his notes that had to do with this subject. His notebooks were there. All the investigating authorities knew they were there. There was never any effort to prevent people from looking at them themselves if they wished to do so. . . . I think your phraseology . . . carries an implication that . . . they had been withheld before that [the summer of 1990], which they weren't. They were available."), pp. 16-17.

²²³ E.g. Hill Note, 11/9/86, ANS 0001748 ("(S) [Shultz]: g008Nick Brady called me last night about whether I wd [would] resign. I sd [said] what concerns me is g008Bush on TV saying it ridiculous to even consider selling arms to Iran. VP was part of it. In that mtg [meeting]. Getting drawn into web of lies. Blows his integrity. He's finished then. Shd [Should] be v. [very] careful how he plays the loyal lieutenant role now."); Hill Note, 11/10/86, ANS 0001771 (Shultz: "They are trying by this [press] guidance to get me to lie. What are they trying to pull on me[?] Taking the P [President] down the drain. VP, Sec Def. Sec State shd [should] on such occasions prevail on P. They aren't -- So I'm alone."); Hill Note, 12/2/86, ANS 0001948 ("The VP has had a thing about wanting to be a hero about hostgs [hostages]. He wanted in ME [Middle East] trip to go to Syria. Wanted to have a hostg come back on his plane[.] There's a superficiality there."); Hill Note, 12/2/86, ANS 0001949 ("(S) [Shultz] has just read [intelligence report] summary -- can't believe VP in it -- if so he's fing008ished. Up to his neck in it. A lot in here. . . . (S): To extent there is truth to this, my warning to VP was ludicrous. Washed him out of politics. Cd. [Could] cause him to have to g008resign. It really is getting like Watergate."); Hill Note, 12/3/86, ANS 0001953 (Shultz: "Big event today is VP speech I guess. -- [Intelligence reports] show he in collaborative pattern w [with] ON [Oliver North]. An action officer[.] -- If not careful he'll dissemble + it will come out that he was deceiving people."); Hill Note, 12/28/86, ANS 0002108 ("g008Bush has lost his chance. The [intelligence report] material. Full of VP references. He always tempted to lurch to Right. Contra + Iran tempted him. So he will cont. [continue] to aspire to Presidency w [with] money + name recognition -- but whose star is fading. Dems [Democrats] maybe love to have him nominated."); Hill Note, 1/3/87, ANS 0002116 (Shultz: "The whole thing crushes Bush. I'll stop saying that to people. His only hope wd [would] be if P [President] ceases to be P. I don't think he can get elected now on his own."); Hill Note, 1/4/87, ANS 0002125, ANS 0002130 (Shultz: "And it includes g008Bush. He is up to his ears in Iran. His name [is] sprinkled all thru it. . . . That's why I shut out of it. . . . g008VP is deeply into Iran thing + has big problem").

²²⁴ E.g. Hill Note, 6/27/84, ANS 0000705 ("(S) [Shultz] -- I sd [said] [to President Reagan] I upset w [with] quality of disc [discussion] [at June 25, 1984, NSPG meeting regarding Nicaragua]. Cap [Weinberger] close to unacceptable as interlocutor (in contrast to Kirkp [Kirkpatrick]). Misstates facts. Many battles since I been here"); Hill Note, 7/16/86, ANS 0001552-53 (Shultz: "Its tiresome. Wbgr [Weinberger] dishonest. Says these outrageous things. Says ABM ty [treaty] prohibits deployment. I sd [said] it doesnt -- req [requires] 6 mos [months] notice. But Pdx [Poindexter] showing no signs like Bud [McFarlane] did of getting frustrated w [with] Cap. He's strong + in the center of things. You don't have to sit in these meetings + listen to Cap. He's either stupid or dishonest, one or the other."); Hill Note, 12/28/86, ANS 0002110 ("Probl [Problem] is y [you] can't engage Wbgr [Weinberger] in discussion. He makes up mind + that's that."); but, cf., e.g., Hill Note, 12/19/86, ANS 0002078 ("Cap is an ally in some ways. A real guy. Bill Clark has no substance. An

influence peddler. McF [McFarlane] + Pdx [Poindexter] [have] substance but no stature apart from job they hold. Carlucci will have it.").

A few examples drawn from Hill's notebooks illustrate Shultz and Hill's consistently restrictive attitude regarding dissemination of Hill's notes:

-- In November 1986, it was Sofaer, acting on his own initiative, who told the Department of Justice about Hill's note establishing contemporaneous U.S. Government knowledge of the plan to ship HAWK missiles to Iran one year earlier in exchange for hostages.²²⁵ Hill was reluctant to provide a copy of that single note to the Justice Department.²²⁶

225 E.g. Hill Note, 11/24/86, ANS 0001909 (Hill's "Historical Notes" at end of the day include "Key point -- Sofaer blurted out CH [Charles Hill's note] of 11/18/85 [sic] to DOJ Cooper, who got Meese alarmed."); Hill Note, 11/25/86, ANS 0001916 ("The trigger of the turning point[:] It was (S) [Shultz] pounding on P [President Reagan] last Thursday about NSC not giving all the facts. It made some impression -- so he asked/agreed to Meese investigation, gen'l attitude, triggered by Abe [Sofaer] blurting out CH notebook facts that contradicted ON [Oliver North] statement[.] And that turned up ON will wrongdoing."). Hill was upset because Sofaer's disclosure to DoJ could "be read as GPS [Shultz] fingering McF [McFarlane] on something that cd [could] get him prison." (Hill Note, 11/21/86, ANS 0001879.)

226 Hill Note, 11/21/86, ANS 0001878 (Platt secure telephone call to Hill in Ottawa, Canada; Platt reports that "Abe [Sofaer] sd [said] DOJ has asked for all records -- specifically the Nov 18, 1985 [sic] conversation. P [President Reagan] auth [authorized] the investigation[.] And they want our records." Hill's response: "CH [Charles Hill] Raises hell. Stop Abe for shits sake!"); cf. (Hill Note, 11/21/86, ANS 0001879) (Sofaer subsequently calls Hill in Ottawa to reassure him regarding DOJ's request for Hill's "notebooks -- wd [would] not have to be taken out of your [Hill's] possession.").

-- In early December 1986, after Meese and Sofaer had ordered the gathering of all relevant notes, Hill insisted on providing meager excerpts only to the senior FBI agent.

-- On December 8, 1986, during his public testimony, Shultz informed the House Committee on Foreign Affairs that he had prepared a classified statement "based on documents that I have, cable traffic and notes that were taken at the time," and would testify about their contents in closed session.²²⁷ When counsel to President Reagan and Vice President Bush subsequently requested a copy of this classified statement, Hill said that "drag feet is the way" and told Platt to "[t]ell Sofaer to do nothing[.]" ²²⁸

²²⁷ Shultz, HFAC Testimony, 12/8/86, p. 66.

228 Hill Note, 12/10/86, ANS 0002008. Platt's corresponding notes state that "CH [Charles Hill] does not want to hand over his testimony[.] Does not believe lawyers will hold confidentially. -- Didn't -- What would FBI think about handing over? -- What would Congress think about sharing? - Do nothing for now -- [.]" (Platt Note, 12/10/86, ALW 0039314.)

-- Hill also opposed a proposal by State Department lawyers that would have urged the Senate to seek Iran/contra documents directly from State, not from Department of Justice investigators:

-- SSCI [Senate Select Committee on Intelligence] wants all docs [documents] A/G [Attorney General Meese] had gathered during first weekend of Iran investigation. L [Office of the Legal Adviser] proposes SSCI deal directly w [with] State. . . . This is dumb. Q [Question] is not docs, or evid [evidence], but docs gathered by A/G. [Therefore] SSCI shd [should] get copies of 1. (S) [Shultz] reply to draft NSDD [National Security Decision Directive] [and] 2. CH [Charles Hill] note of 11/18/86 McF = (S) sectelcon [secure telephone conversation] -- and nothing else. To deal

directly w [with] SSCI wd [would] open up possibility of requests for all kinds of og008ther docs.229

229 Hill Note, 12/12/86, ANS 0002021. Later Hill notes indicate Senate Select Committee on Intelligence staff members requested a copy of Shultz's ``calendar" before his testimony in December 1986. (Hill Note, 12/14/86, ANS 0002032.)

-- At the end of December 1986, Platt told Hill, who noted the information with pleasure, that SSCI's initial Iran/contra report, which had been sent to the State Department for declassification, contained ``no ref [reference] to notes in any way. . . ." 230

230 Hill Note, 12/31/86, ANS 0002113.

-- In 1987, Hill's ``relevant" note excerpts were provided to the Select Committees' counsel under extraordinary restrictions. Hill's notes of a July 21, 1987, meeting of the Department of State legal team that was preparing Shultz for his testimony before the Select Committees document these restrictions and Shultz's attitude regarding Hill's notes:

0915g008 (S) [Shultz] = [meeting with] MK [Michael Kozak], LK [Libby Keefer], Abe [Sofaer]

MK -- Cmte [Committee] will have 7 books of docs [documents] for (S)

{3 vols [volumes] of CH [Charles

Hill] notes

{2 exhibit books (IR [Iran] +

Contra)

{1 classified docs books (NSPG

[National Security Planning

Group] notes)

None of which we have been given yet

Abe -- They will only refer to books a few times

(S) -- CH notes surfaced. He spent large amt [amount] of time mining them. Not public yet. Devastating if they become g722known known. And totally ag. [against] the agmt [agreement] by which we provided them.

* * *

Abe -- we have to keep notes out of the room or they will be tempted to make them part of the record.

(S) -- when do we get the notes back?

LK -- As soon as yr [your] test [testimony] [is] over. Belnick[231] will collect.

231 Mark A. Belnick, Esq., Executive Assistant to Arthur L. Liman, Esq., the chief counsel of the Senate Select Committee.

* * *

(S) -- . . . CH notes on post-revelation [period]. If published as a book, worth 5m [\$5 million] at least. A fascinating tale. But terrible to have them be made public. All kinds of speculation in there.²³²

232 Hill Note, 7/21/87, ANS 0002699-700. Shortly before Shultz testified publicly before the Select Committees, a congressional staff attorney asked to see Hill's original notes. Hill, who was advised by a State Department attorney that the requester was questionable, personally denied the request for access. (Ibid., 7/16/87, ANS 0002658.)

-- When members and staff attorneys from the Select Committees interviewed Shultz at length on July 18, 1987, in preparation for his public testimony the next week, many of their questions were explicitly based on the excerpts from Hill's notebooks that had been made available to them. 233 After the interview, Shultz told Sofaer and Hill that

233 Ibid., 7/18/87, ANS 0002667-81.

[t]hese guys . . . have a glimpse of my life + activities as w [with] no one else they have called [to testify] -- bec. [because] of CH [Charles Hill] notes. They poring over them.²³⁴

234 Ibid., ANS 0002688.

The next day, during a private meeting with Hill at Shultz's home, Shultz voiced additional concerns about outsiders reviewing Hill's notebooks:

(S): I've read yr [your] notes on post-revelation [period]. Astonishing story; Our behavior strong. But to have it up their on [Capitol] Hill for staff + lawyers to read -- devastating for WH [White House]. If [Hill's notes] were to be published . . . Nothing like it in history of the Republic.²³⁵

235 Ibid., 7/19/87, ANS 0002691 (ellipses in original).

-- With the cooperation of the Select Committees members and staff, almost none of Hill's notes were used as exhibits or mentioned during Shultz's public testimony before the Select Committees. When Representative Fascell referred during Shultz's testimony to a single Hill note, the occurrence was unusual enough that Hill recorded it in his notebook.²³⁶

236 Ibid., 7/24/87, ANS 0002724 ("Fascell passes (S) [Shultz] a page of CH [Charles Hill] notes Nov 24, 1986").

-- On August 7, 1987, after Shultz had completed his testimony and received Hill's note excerpts back from the Select Committees, he made his position abundantly clear:

CH [Charles Hill] notes. They personal. We have retrieved them from the Cmte [Committee]. Not giving them out anymore.²³⁷

237 Ibid., 8/7/87, ANS 002776. The next line of Hill's notes suggests that Shultz contrasted his behavior with Weinberger's: "Cap takes notes but never referred to them so never had to cough them up." (Ibid.)

In his February 1992 interview with the OIC, Shultz indignantly denied that any information was withheld deliberately.²³⁸ He stated that he had always cooperated fully and directed his subordinates to cooperate fully with investigators.²³⁹ He said,

238 When asked if he and Hill in the past four weeks had discussed whether relevant Iran notes had not been turned over to investigators in December 1986, Shultz called the question "outrageous" and asked, "Do I have to answer a question about whether I stopped beating my wife?" (Shultz, OIC Interview, 2/12/92, p. 26.)

239 Ibid., pp. 34-35, 39, 56-57.

as far as I know, but you may have some other things, all of the fundamental and important information was placed in front of people and it turned out to be very important.²⁴⁰

240 Ibid., p. 25.

The OIC then confronted Shultz with handwritten notes and other documents reflecting information brought to his attention and private statements he made during the period he had labeled "phase one" of the Iran initiative (June through November 1985). He had described this in his December 1986 testimony as a period when he "learned of two proposed arms transfers, but was not informed that either was consummated." ²⁴¹ Shultz was combative throughout this segment of the interview and did not acknowledge that his testimony regarding "phase one" had been incorrect.

241 Shultz, SSCI Testimony, 12/16/86, p. 6.

Despite the notes suggesting otherwise, Shultz adhered to his previous statements that he had not known of Israel's August and September 1985 TOW missile shipments to Iran, which produced the freedom of hostage Weir. He repeated his belief that Weir was released to deliver a message from the Hezbollah terrorists who had held him hostage in Lebanon, demanding the release of the Dawa prisoners in Kuwait.²⁴² Shultz said he had "accept[ed] Weir's statement and the rationale that it contained at face value" ²⁴³ and that, consequently, any broader deal involving an arms shipment "did not come off." ²⁴⁴

242 E.g. Shultz, OIC Interview, 2/12/92, pp. 60-61, 70-73, 77, 79, 90, 113, 115, 172-73.

243 Ibid., p. 71.

244 Ibid., p. 73; accord, *ibid.*, pp. 81-82 ("There was something that apparently was supposed to happen [in September 1985] that didn't and so it was an effort that didn't work."), p. 92 ("other things that I was aware of . . . didn't come to pass").

Shultz dismissed various handwritten notes that appeared inconsistent with his testimony. Shultz said that Hill's September 11, 1985, note anticipating hostage releases and "a bill for arms for IR [Iran] from Israel" was speculation by Hill.²⁴⁵ Hill's September 16 note -- "McF [McFarlane] + Ollie [North] are getting us into deal where we will have to pay off Isr [Israel], IR [Iran] + Syr [Syria] for what we wd [would] get from Syria for nothing following Atlit release" -- which Hill made after Weir had been released but while "op [operation] still going on," also was dismissed by Shultz as "Charlie's speculation. . . ." ²⁴⁶

245 Ibid., pp. 54-55.

246 Ibid., p. 66.

Shultz was hard-pressed to explain other notes. He claimed, incredibly, that Hill's September 17, 1985, note reporting the NBC story regarding a plane flying arms from Israel to Iran, The Washington Post story regarding Weir's release and Hill's observation that reporters "[h]ave not yet put the two together" did not necessarily indicate that Hill, himself, had "put the two things together." -- even though Hill noted that in the margin.²⁴⁷ Shultz speculated that his telling answer to Whitehead's question on September 21 -- Whitehead: "Do you think they tell the President?" Shultz: "Yes, but he doesn't appreciate the problems with arms sales to Iran." -- referred not to an actual arms sale that had just occurred, but the Israeli proposal a month earlier.²⁴⁸ According to Shultz, Raphael's November 12, 1985, note of his meeting with Armacost, Oakley, Borg and Ross -- "Iranian/Israeli connection -- got Weir released" -- was the speculation of that senior group, not something he in 1992 agreed with in fact.²⁴⁹ Shultz explained that, while he could not recall in

1992 what he thought at particular points during fall 1985,250 "I testified what I thought in December [1986] when I testified before the Senate." 251

247 Ibid., p. 101.

248 Ibid., pp. 113-14, 117-18.

249 Ibid., p. 132. Oakley's November 18 memorandum -- which was electronically transmitted to Shultz at the Geneva summit and reported that "[t]hrough other sources and connections, those used for the release of Reverend Weir, there is an expectation of a possible breakthrough on the hostages on November 20 or 21" -- similarly was dismissed as a "phrase . . . which I may or may not have focused on." (Ibid., p. 163.)

250 E.g. Ibid., pp. 69, 105.

251 Ibid., p. 152.

Shultz also tried to square his knowledge of Israel's shipment of HAWK missiles to Iran in late November 1985 with his testimony that he "was not informed" during the first "phase" that an arms transfer to Iran "was consummated." Although Shultz admitted that he had known of the HAWK missile shipment by December 6, 1985,252 Shultz claimed that his knowledge of a HAWK missile delivery to Iran did not mean that he knew that a delivery had been "consummated":

252 Ibid., pp. 165-66; accord, Shultz, SSCI Testimony, 12/16/86, p. 20.

Q: When you said not consummated, an arms transfer in fact did take place.

A: That's right.

Q: Why the use of the term consummated since you were aware that an arms transfer had taken place in November of '85?

A: Well, it had not taken place in the sense that the arms were not accepted by Iran and they were rejected so it hadn't taken place. That's what I said.

Q: They were ultimately returned but you were aware that they went there and that it was some period of time when they were returned. Is that correct?

A: Basically that's what I testified before the Senate.253

253 Ibid., pp. 166-67.

After learning that Hill had not produced numerous Iran/contra notes, Shultz repeatedly and emphatically declared that he and the legal adviser's office had directed Department of State personnel to produce all relevant information to investigators and denied that there had been any process of selecting which relevant notes were to be produced.254 Shultz said that, because Hill is a person of great integrity, intellect and competence,255 his failure to produce certain notes must be attributed to honest mistakes he made during the limited time he had to review his notebooks.256

254 E.g. ibid., pp. 8-9. Shultz also said that the relevance of a Platt note -- which recommended that Shultz talk to McFarlane in October 1985 about the "Iranian connection," based on intelligence connecting the White House to a "\$100 million for spare parts for Iran," and which was not produced in 1986 or 1987 -- is determined not by the content of the note, but by "whether or not [the information] is available elsewhere"; to determine relevance, "you have to be Nick Platt and say where did this come from and is that something I should provide." (Ibid., p. 122.) Shultz seemed

to be suggesting that notetakers did not have to produce any notes that they regarded as cumulative of available information or containing information from an unreliable source.

255 E.g. Ibid., pp. 84, 142-45.

256 E.g. Ibid., p. 57 ("Well, you found something [in his September 11, 1985, notes] that Charlie probably missed. That's about the way I could express it."), p. 84 ("again I think what Mr. Hill did was make a good faith effort to find everything in his notes he could find and that doesn't necessarily mean that he found everything that was there"), p. 136 ("all I can think about is that this [November 14, 1985, note] is something that Charlie Hill missed").

As to his statements regarding "phase two" (December 1985 through April 1986),²⁵⁷ Shultz initially explained that his testimony that the United States had been "unwilling" to sell arms to Iran during this period was a description, in hindsight, of his knowledge at the end of the phase.²⁵⁸ He said he had testified to his understanding of what actually had happened.²⁵⁹ Shultz attributed particular inconsistencies with contemporaneous documents to his own oversights, his failures of recollection and his aides' failures to bring specific notes to his attention before he testified in December 1986. Thus, although Hill's December 7, 1985, note indicates that Shultz was told at the White House meeting that morning that "Israel sent 60 I-hawks," Shultz said he "must have overlooked that in some manner." ²⁶⁰

²⁵⁷ Ibid., pp. 166-68.

²⁵⁸ Shultz, SSCI Testimony, 12/16/86, p. 6.

²⁵⁹ See Shultz, OIC Interview, 2/12/92, pp. 182-83 ("My summary statement is covering the period and reflects what I knew about what happened."), p. 186 ("[A]s with all these things, you don't know what a person is ready to do until you actually do it and that's what you have to judge. You have to judge by what happens."), p. 188 ("that statement [that the U.S. was unwilling to sell arms during phase two] was intended as a summary of the behavior that I observed during the period that I identified").

²⁶⁰ Ibid., p. 173; accord, *ibid.*, p. 174 ("This does say that there was an actual shipment by Israel so somehow I missed that").

Shultz said his understanding that the United States was unwilling to sell arms during this period was based on two factors: First, he claimed to be unaware of a presidential Finding legally authorizing arms shipments to Iran and, because he believed that such shipments would be illegal without a Finding, the lack of a Finding meant the United States was unwilling to ship arms to Iran; ²⁶¹ second, Poindexter showed Shultz talking points on February 28, 1986, for a meeting that McFarlane was to have with Iranians that would result in the release of the hostages, and the talking points did not mention arms.²⁶²

²⁶¹ Ibid., pp. 181, 199.

²⁶² Ibid., pp. 196-97 ("I put these things together, I think quite understandably, as meaning that when people came right up to it, they were approaching this issue of creating a better relationship with Iran on a basis to which I had no objection and which is characterized properly by the phraseology that I used [in my December 1986 testimony]").

Although Hill's February 28, 1986, notes regarding this episode do not mention arms, Independent Counsel located no copy of the McFarlane "terms of reference" in NSC records that does not mention arms.

Shultz was then shown several notes -- none of which had been produced to Congress or Independent Counsel in 1986 or 1987 -- that documented his knowledge of U.S. willingness to sell arms to Iran during phase two, December 1985 through April 1986.

Shultz had no explanation to offer when he saw Weinberger's notes of the February 11, 1986, family group lunch, which contain a detailed timeline for transferring TOW missiles from the United States through Israel to Iran within the next seven days:

A: Well, I'm surprised by this because I don't recall that being set out.

Q: Can you think of any explanation why these notes would indicate such an elaborate description of the delivery of the TOWs in light of your testimony on December the 16th[, 1986]?

A: Well, the only explanation I can think of is that this represented some sort of side conversation between Weinberger and Casey as frequently happened in these meetings but I'm not remembering this.

* * *

Q: Any other remarks about that [note] before we move on?

A: No. I don't know quite what to say about it. I am surprised by it and I don't remember it.

* * *

[Shultz:] What does this ["`French dropped some demand"] refer to at the top [of Weinberger's note] then?

Q: I don't mean to be flip but I wasn't at the meeting.

A: I feel as though I wasn't either.²⁶³

²⁶³ Shultz, OIC Interview, 2/12/92, pp. 204-07.

Shultz saw that Hill's February 21, 1986, note of Shultz's report on that day's family group lunch included his statement that "`I think we have already turned over some wpns [weapons]." He was asked what his statement had meant:

A: It must have been just a supposition, an instinct.

Q: During this period of time in your testimony you were stating that you had strong evidence of a dialogue but [we] were unwilling to sell arms and this [note] indicates that your thoughts were at the time that "`we have already turned over weapons."

A: Just that I was -- it must be that having had this described, I was uneasy that that might already have happened, but I don't know any more than what this says.

Mr. Cutler: May we have a recess?

Mr. Gillen: Just one more point before we take off.

Do you feel that this note would have been helpful to investigators in '86 and '87 if it had been turned over?

A: Well, it sure would have been helpful to me in preparing my testimony.²⁶⁴

264 Ibid., pp. 208-9.

After taking a break, Shultz began with a statement before questioning resumed:

I'd like to say there[,] if there were shipments and I had known about them in my mind at the time I testified, I certainly would have testified to that effect. There was no reason for me not to set out what I knew, no reason not to, so I'm puzzled by this.²⁶⁵

265 Ibid., p. 209.

Shultz agreed that Hill and Platt's April 3, 1986, notes -- "Money man in town w [with] \$ to pay for TOWs. . . . This all has me horrified. Region [is] petrified that Iran will win + we are helping them." 266 -- would have helped him prepare his testimony in December 1986 because it is "further evidence of arms being traded." 267 He said, "I think if I had this note I would have not testified the same way." 268

266 Hill Note, 4/3/86, ANS 0001399.

267 Shultz, OIC Interview, 2/12/92, pp. 211-12.

268 Ibid., p. 215; accord, *ibid.*, p. 230 ("I said some things today that are -- earlier today -- that are inconsistent, and I said some things in my testimony that are inconsistent with things you have shown me. So I'm perfectly glad to see -- I'm not glad to see but I would look at things that are written on the record and regard that as more convincing than what I remember and what I told you earlier."), p. 236 ("if I had [a recollection of conversations from February through May 1986 regarding TOW missile shipments or sales to Iran], I would not have testified the way I did"), p. 244 ("I can't imagine I knew these things when I testified or I wouldn't have testified the way I did").

During the examination regarding phase two, Shultz offered an explanation for his apparent failure in December 1986 to recall events that apparently had been quite striking at the times they occurred less than a year earlier:

Q: Would the impact of a man coming to the United States "in town to pay for TOW missiles," is that something that irrespective of any notes, is that something that you could have forgotten about, having that kind of knowledge in the spring of 1986 when you testified in December of '86?

A: Well, I think in December '86 in trying to construct this testimony I basically relied on the information that we got up and felt that the notes and the documents were the best evidence that I had at the time and I went ahead on that. . . . Basically I relied on the notes that we had.²⁶⁹

269 Ibid., p. 213; accord, *ibid.*, p. 244 ("I think I had convinced myself way back when I was involved in the testimony and so on that my best approach was to take the materials, the notes, the documents and so forth, and use them as a basis for my testimony because that's what I felt I knew").

In contrast to the examination regarding phase one, Shultz offered no opinions during the phase-two examination regarding Hill's integrity, his efforts to produce relevant notes or reasons why relevant notes may not have been produced to Independent Counsel or the Select Committees.

Shultz was then confronted with handwritten notes and other documents reflecting information brought to his attention and statements that he made during "phase three" (May 1986 until the revelations of early November 1986), which he had described in his December 1986 testimony as a period when "I received no information indicating that an arms transfer to Iran had occurred." ²⁷⁰

270 Shultz, SSCI Testimony, 12/16/86, pp. 6-7.

After reviewing notes showing his awareness in May 1986 that McFarlane had delivered HAWK spare parts to Iran, Shultz first explained that his December 1986 testimony had incorrectly drawn the date line between phases two and three in early May 1986, when he should have started phase three some time in or after early June 1986. Shultz reiterated that Poindexter and Casey had told him ``that the whole operation was going to stand down or some phrase like that." 271 Shultz said that he had meant to draw the line between phases two and three at the point he received that information:

271 Shultz, OIC Interview, 2/12/92, p. 229. Although Shultz asserted that there is no note on this point, (ibid., p. 229) in fact Hill's July 2, 1986, note quotes Shultz as saying, ``Casey said it was dead." Hill's note also includes Shultz's rejoinder, however: ``It's not." (Hill Note, 7/2/86, ANS 0001528.)

I'm just trying to . . . get a dating for the third phase; namely, when I was told that the operation was standing down. It was the period of time from then until the release of Jacobson [sic] and that I didn't have any information. That's what I testified to. That's the dating that I had in mind.272

272 Shultz, OIC Interview, 2/12/92, p. 231

Shultz then acknowledged that his information that McFarlane had delivered weapons parts to Iran was not consistent with his testimony that the United States was not willing to sell arms to Iran during phase two.273 Shultz said that

273 Ibid., pp. 231-32.

[t]he only reason that I can think is that I was not aware in my mind at the time that I testified that that was so; this is, my purpose was to be as informative as I could be and I had no reason or incentive to hold anything back.274

274 Ibid., p. 232.

After an overnight recess, Shultz reflected on the previous day's session. He did not contest the accuracy of the documents he had reviewed.275 He said that the notes had surprised him because they were not consistent with, and did not refresh, his present recollection of events.276 Shultz stated that he also had not remembered these events at the time of his testimony in December 1986 and stated categorically that, if he had recalled or if he had had these notes before him at that time, his testimony would have been different:

275 E.g. Shultz, OIC Interview, 2/13/92, p. 252.

276 Ibid., pp. 248, 272. Shultz added, ``I don't have pinned down in my own mind even after our discussion yesterday my specific knowledge of an actual delivery of arms. . . . I am not able to pin down in my own mind right now what I must have known or not known about an actual delivery." (Ibid., pp. 254-55.)

At the time that I testified . . . I was not aware, I didn't remember and my memory hadn't been refreshed by written material, some materials that you showed to me, and I'm certain that if I had that material in front of me, my testimony would have been different and it would have reflected that.

I also recognize that there were times when apparently from the things that you showed me, which I'm not doubting, I knew about some planned events and I didn't renew my protest to the President. I don't know why that is. . . .277

277 Ibid., p. 252; accord, ibid., p. 256 (``Well, I have trouble in light of the things that you brought out in explaining to myself why I didn't go back at the President, but I didn't.").

Shultz then discussed his understanding of the July 1986 release of hostage Jenco, which occurred during "phase three." Shultz initially stated that he had no present recollection regarding Jenco's release.²⁷⁸ After reviewing the contemporaneous documents showing that most of his senior aides (Hill, Platt, Armacost, Ross and Raphel) had been informed at the time that the release of Jenco in July 1986 was a result of a \$24 million arms deal with Iran, Shultz said flatly that he was not similarly informed.²⁷⁹ He admitted, however, that he would not have expected Armacost, Platt and Hill to keep such information from him.²⁸⁰ Shultz also did not recall reading a series of talking points that Hill had prepared for him to use with President Reagan on or about November 12, 1986, which includes Hill's handwritten note, "July 1986: Jenco released, then arms shipped to Iran (\$20 million U.S. \$4 million Israeli)." ²⁸¹

²⁷⁸ Ibid., p. 286.

²⁷⁹ Ibid., p. 287.

²⁸⁰ Ibid., p. 290.

²⁸¹ Ibid., p. 321 (referring to Hill's Talking Points, circa 11/12/86, ALW 0050420).

Shultz said that, although he did not recall discussing Jenco's release with Hill in July 1986 or later during the preparation of testimony,²⁸² he did not believe that Hill would have withheld the Jenco information.²⁸³ If Shultz had recalled that information, he added, his testimony would have been different:

²⁸² Ibid., p. 297.

²⁸³ Ibid., p. 324.

Q: . . . When you were preparing with Mr. Hill based upon his review of his records, did he remind you of the Jenco release as a result of the Polecat \$24 million in weapons?

A: I think if I knew this to be a fact when I testified, I would have testified to it.

Q: What you did testify was that "I received no information [during phase three] indicating that an arms transfer to Iran had occurred." This [November 10, 1986, Hill] note indicates that on the summary review of Mr. Hill that "the Jenco release was Polecat, \$24 million in weapons."

A: Well, as I said, if I knew that to be a fact I wouldn't have testified the way I did.²⁸⁴

²⁸⁴ Ibid., pp. 310-11. Shultz accordingly did not agree with Platt's December 15, 1986, note calling Jenco an "[a]rea[] of greatest vulnerability." Shultz said: "My attitude was, is now and was then[,] that that's not the way to look at it. The way to look at it is that we should say, or I should say as carefully and completely as I can what I knew contemporaneously with the flow of events to the intelligence committee." (Ibid., p. 330.)

Questioning Hill

Shortly after the OIC interviewed Shultz on February 12-13, 1992, it conducted a two-day interview of Hill on February 21 and February 24, 1992. The questioning focused on his handwritten notes and their nonproduction.

Prior to interviewing Hill, the OIC had already obtained some information about Hill's actions in the weeks after the November 1986 exposure of the Iran arms sales. The State Department in 1988 had produced copies of most of his notes from November and December 1986. He had been interviewed on several occasions by the FBI and the OIC.²⁸⁵ He had answered written questions from OIC on January 22, 1992.²⁸⁶

285 Hill, FBI 302s, 12/4/86 (two interviews), 5/7/87, 7/13/87, 12/18/87, 7/23/88, 12/10/90 and 12/12/90.

286 Letter from Craig A. Gillen to Charles Hill, 1/7/92, 017948; Letter from Charles Hill to Lawrence E. Walsh, 1/22/92, 018034.

The OIC had also obtained from the State Department in February 1992 a handwritten chronology prepared by Hill on November 8, 1986,²⁸⁷ which appeared to record information that Shultz had received regarding the arms sales. The chronology is incomplete in subtle but important ways. For example, a May 22, 1986, entry in the chronology discusses (1) North going to Cyprus with a non-Iranian intermediary, (2) a \$10 million donation by Catholic Relief Services to poor Shia Moslems in Lebanon, and the release of all hostages within a week.²⁸⁸ But Hill's actual notes from May 22, 1986 -- which were not produced to the FBI or to Congress in 1986 or 1987 -- go on to quote Shultz as stating that "[t]his is to be cover story for our shipment of TOWs to Iranians." ²⁸⁹ The omitted quote reveals Shultz's awareness of an arms-for-hostages exchange in May 1986 that is inconsistent with Shultz's disclaimers of Iran arms sales knowledge in his testimony.

²⁸⁷ Hill Chronology, 11/8/86, ALW 50552-58. Hill had referred to this chronology in the written answers he provided to Independent Counsel on January 22, 1992.

²⁸⁸ Ibid., ALW 50558.

²⁸⁹ Hill Note, 5/22/86, ANS 001459.

Finally, the OIC knew that Hill had limited the excerpts from his notes provided to State Department lawyers and to the FBI prior to Shultz's December 16, 1986, testimony,²⁹⁰ to those consistent with the "three-phase" description given by Shultz in his testimony.

²⁹⁰ Hill, FBI 302 (Special Agent Beane), 12/4/86, p. 1; Sofaer, OIC Interview, 2/20/92, p. 23.

At the outset of his February 1992 OIC interview, Hill acknowledged that he had spoken with Shultz and his lawyers about the questions the OIC had asked Shultz just ten days earlier.²⁹¹ Throughout the interview, Hill denied having intentionally withheld any notes from investigators. Hill offered a multi-layered explanation for his failure to include certain relevant notes among the excerpts he gathered in preparation for Shultz's December 1986 testimony. Hill repeatedly downplayed the significance or credibility of the information in notes he had omitted from these excerpts. Hill said that he had played only a minor role in preparing Shultz for his December 1986 testimony.²⁹²

²⁹¹ Hill, OIC Interview, 2/21/92, pp. 5-9.

²⁹² Hill's story is inconsistent in several key respects with the recollection of Sofaer.

Hill's basic position during the interview was that he was never asked to review all of his notes for all entries relevant to the Iran arms sales, and that he never undertook a review of his notes for this purpose. In early November 1986, as the Iran arms sales were first becoming public, Shultz and Hill traveled to Vienna, Austria.²⁹³ During their travel, Shultz and Hill discussed the history of the arms sales but were unable to recall many of the details of what had occurred.²⁹⁴ Upon their return to the United States, Hill spent a dozen or more hours on Saturday, November 8, 1986, reviewing his notes. This review provided the basis for his November 8, 1986, chronology.²⁹⁵

²⁹³ Hill, OIC Interview, 2/21/92, pp. 18-19.

²⁹⁴ Ibid., p. 20.

²⁹⁵ Ibid., pp. 19, 21.

According to Hill, however, Shultz rejected the chronology the very next day, because it contained some information he had learned only after the public revelation of the arms sales. Shultz believed that the chronology did not accurately reflect what Shultz had known at specific points during the course of the arms sales.²⁹⁶ Hill told the OIC that he then became preoccupied with assisting Shultz's efforts to quash the ongoing efforts to engage Iran in arms-for-hostages transactions.²⁹⁷ Accordingly, he did not conduct any further review of his notebooks until late November or early December 1986, when he searched for information that would aid in the preparation of Shultz's upcoming congressional testimony.²⁹⁸

²⁹⁶ Ibid., pp. 21-22.

²⁹⁷ Ibid., pp. 22-23.

²⁹⁸ Ibid., p. 19.

As Hill explained it, even this review had only a limited purpose. Hill was not searching for all notations relevant to the Iran arms sales. Rather, he was attempting "to go and get what in [Shultz's] view were the key -- as best we could recall it then -- what were the key elements in his effort to stop [the Iran arms sales] in the past." ²⁹⁹ In other words, Hill reviewed his notes not to refresh Shultz's memory by identifying all relevant notes, but to provide support for those events that Shultz actually remembered.³⁰⁰

²⁹⁹ Ibid., pp. 23-24.

³⁰⁰ Ibid., pp. 25-27.

Even with this qualification, Hill was at a loss to explain why certain notes were not provided, Hill admitted that he should have included specific notes in his excerpts and had made a mistake by not doing so. These included:

-- A November 14, 1985, note of Armacost telling Shultz that McFarlane had recently asked Weinberger how to get HAWK and Phoenix missiles to Iran -- Hill said, "This one simply escaped me." ³⁰¹

³⁰¹ Ibid., p. 111. Hill was asked if he checked his notes to verify Shultz's testimony that he was unable to protest the November 1985 HAWK shipment because he had no advance notice of the shipment. Hill's November 14 note shows that Shultz and the Department of State did have advance notice. Hill said he did not check his notes on this point: "Looking back at it, that's an error on my part." (Ibid., p. 115.)

-- An April 3, 1986, note of a "horrified" Shultz telling Hill there is a "money man" in town to pay for TOW missiles, and that the McFarlane Tehran meeting -- during which the hostages will be released -- will be set once payment is made -- Hill said, "if I had seen this and focused on it, it would have been relevant and I would have brought it to his [Shultz's] attention in that [December 1986] period. I did not do so and I fault myself for that." ³⁰²

³⁰² Ibid., pp. 164-69.

-- An April 15, 1986, note indicating that Hill and Shultz discussed a report that North and McFarlane were going to Tehran in late April to work on "hostages for arms" -- Hill said, "I don't know why I didn't catch it. I didn't catch it." ³⁰³

³⁰³ Ibid., pp. 174-75.

-- A July 16, 1986, note about Shultz and Hill discussing the possibility of using an official of another country to pursue contacts with Iran and serve as a "[w]ay out of Polecat" -- Hill said he

``entirely missed it in the review," called that ``a lapse on my part" and said ``as part of the great blank of whiteness out there, it was just not there." 304

304 Ibid., pp. 223-24.

-- A July 28, 1986, note reporting that Jenco was released as a result of Polecat -- specifically, a \$24 million weapons deal between the U.S. and Iran -- Hill said this was ``a major error on my part of misjudgment;" ``[m]y analytical and judgmental abilities simply weren't functioning." 305

305 Ibid., p. 226.

Hill claimed that in omitting the July 28, 1986, note regarding the Jenco release, he ``simply missed this period in terms of significance. It was a great gap which I now see but I did not see at that time." 306 But a note Hill wrote on November 10, 1986, plainly shows that Hill did not miss this note. He summarized it during his November 1986 review of his notes:

306 Ibid., p. 231.

g008from CH [Charles Hill] notebooks

7/28 g008Jenco release (July) was Polecat \$24 m [\$24 million] in wpns [weapons.] next will be [Terry] Anderson 307

307 Hill Note, 11/10/86, ANS 001756.

Hill also referred to the Jenco information when preparing materials for Shultz to use during a November 12, 1986, meeting with President Reagan.³⁰⁸ In addition to written talking points,³⁰⁹ Hill made several handwritten notations on a page that contained a copy of a November 12, 1986, Washington Post compilation of ``Administration Statements on Iran." This page was stapled to the typed talking points when the OIC found these documents at the State Department in 1992. Hill's fifth handwritten notation on this page reads:

308 Shultz's calendar for November 12, 1986, reflects a meeting with President Reagan from 1:30 p.m. to 2:00 p.m. (Shultz, Record of Schedule, 11/12/86, ALW 49611.) Shultz identified the typed talking points for his meeting with President Reagan and explained that his goal during this meeting was to prevent any further arms sales from taking place. (Shultz, OIC Interview, 2/13/92, pp. 316-18.)

309 Hill, Talking Points, circa 11/12/86, ALW 50420-25.

g008July 1986: g008Jenco released, then

arms shipped to Iran (\$20

million U.S., \$4 million

Israeli).³¹⁰

310 Ibid., ALW 50420.

Hill claimed that in 1987 he turned over all of his notes from the ``after the revelation" period.³¹¹ But the November 10 note, which summarized the July 28 Jenco note, was not among the package he produced in 1987. Hill produced 24 pages of notes he had taken on November 10, 1986, including the pages immediately before and immediately after the original page that referred to the July 28, 1986, Jenco note, but not that page itself.

311 Hill, OIC Interview, 2/21/92, p. 245.

He also reformulated his basic explanation of the limited purpose for which he reviewed his notes prior to Shultz's December 1986 testimony. He said he did not review his notes to buttress all of the points that Shultz remembered, but only to identify a narrow category of information:

I went to my notebooks and went to the time periods that we had thought in Vienna were the key periods in Shultz's reconstruction of this at which he felt that he had enough direct information and the ability to deal with the principals of this [], that is Poindexter or whomever, and to throw himself into it and to try and he thought make a fundamental shift in the way things were going.³¹²

312 Ibid., pp. 24-25.

Later, Hill offered another narrow formulation of the purpose of his search:

What [Shultz] wanted to do was to talk about or to convey to the Senate what on key events when he was unmistakably confronted with a situation, what action he took in general outline, again given the objective that he set for himself with regard to the December testimony.³¹³

313 Ibid., p. 110. Hill later offered another version:

What [Shultz] wanted to do was simply go through the basics as he understood it in his own mind of what he had done and those related to occasions when he was in his mind presented with evidence that arms for hostages -- an operation that was underway, without any doubt was taking place or on the verge of taking place, not rumor, not talked about in terms of someone is heading someplace else, or someone says somebody is in town, but actually was underway because he had to harbor the occasions at which he could take on the others.

(Ibid., pp. 178-79.)

Hill claimed that he was looking for only those notes that reflected times when Shultz was ``unmistakably confronted" with ``direct evidence" under circumstances where he could ``deal with the principals" in order to cause a ``fundamental shift" in U.S. policy toward Iran. With these quoted phrases, Hill exposed the selective nature of Shultz's testimony, as well as Hill's document production.

Asked about specific relevant notes that he did not include in the excerpts he provided to Sofaer's office and to the FBI. Hill observed variously, that the actual events differed from certain notes that anticipated them,³¹⁴ did not directly involve Shultz,³¹⁵ that Shultz and he had not really understood the information at the time they received it,³¹⁶ that the information passed on to Shultz was not sufficiently reliable,³¹⁷ that he (Hill) did not believe the information he recorded in his notes.³¹⁸

314 E.g. Ibid., pp. 85-101, 205-7.

315 E.g. Ibid., pp. 107-8.

316 E.g. Ibid., pp. 198-203.

317 E.g. Ibid., pp. 214-15.

318 E.g. Ibid., pp. 135-36, 181.

The events recorded in some of the withheld notes were of such significance that it is difficult to believe that Hill overlooked these notes in the production process. For example, Hill noted on September 17, 1985, separate press reports that (1) Israeli arms had been sent to Iran, and (2) Weir

had been released. Hill noted that ``Bud's folly is out," and Shultz's reaction: ``Well, sometimes you have to try things." 319

319 Hill Note, 9/17/85, ANS 001126.

Hill recalled ``virtually running into [Shultz's] office to tell him . . . [that] we've caught the guy," that is, that McFarlane's arms-for-hostages ``folly" is now exposed. Shultz was ``totally surprised and in a sense disbelieving," and responded that ``sometimes you've got to try things." Shultz felt ``resigned" and ``defeated" to learn of these arms shipments.³²⁰ Hill's explanation for not producing the notes: the events later appeared not to have happened exactly as described in the note. Nonetheless, Hill and Shultz discussed it prior to Shultz's testimony.³²¹

320 Hill, OIC Interview, 2/21/92, p. 99.

321 Ibid., p. 101. At a later point, Hill was asked if he had discussed the substance of this Weir note during Meese's interview of Shultz on November 22, 1986. Hill replied, ``No, I'm quite sure I didn't go into that kind of detail at this kind of meeting." (Ibid., p. 281.) Hill was then confronted with notes that Assistant Attorney General Cooper had taken during the November 22, 1986 Shultz interview. Cooper's notes indicate that Hill had recited the details from his September 17, 1985 note. (Cooper Note, 11/22/86, ALV 071843.) Hill then reversed his prior answer and acknowledged that he did discuss the details. (Hill, OIC Interview, 2/21/92, p. 281.)

Hill also did not include in his excerpts a May 22, 1986, note describing (1) Ollie North and a non-Iranian intermediary traveling to Cyprus, (2) a \$10 million Catholic Relief Services donation to poor Shia Muslims in Lebanon, and (3) the concomitant release of all hostages.³²² Immediately after listing these three events, the note quotes Shultz as saying, ``This is to be cover story for our shipment of TOWs to Iranians." ³²³ Though plainly relevant to what Shultz knew about the Iran arms sales, Hill did not provide this note to investigators. He explained:

322 Hill Note, 5/22/86, ANS 001459. Hill recorded this note just three days after describing in a note Weinberger telling Shultz of intelligence reports that McFarlane was taking arms to Tehran as part of the arms-for-hostages operation. (Hill Note, 5/19/86, ANS 0001453.)

323 Hill Note, 5/22/86, ANS 001459.

[T]his is in the category of things that do not happen, stories that prove to be false, false starts, rumors, assertions that are not borne out, claims that something is going on that seems not to be going on, and therefore it is not in the realm of something where he [Shultz] has taken action.³²⁴

324 Hill, OIC Interview, 2/21/92, p. 211. The nonproduction of this note is even harder to understand in light of Hill's recollection that Shultz was in ``agony" after hearing of this arms-for-hostages episode. (Ibid., p. 207.) Hill continues: ``. . . I think [Shultz] believes this for whatever it is, a few hours, and we leave him to his agony, and then shortly thereafter, once again the indications are that this has been a false alarm." (Ibid., p. 211.)

Actually, the note refers to a cover story for the expected release of hostages after McFarlane's mission to Tehran. The failure of the mission does not negate Shultz's knowledge of it.³²⁵

325 Hill claimed as late as February 1992 that he did not know that McFarlane had gone to Tehran. (Ibid., p. 211.) Hill admitted, however, that he was aware of public statements in November 1986 that such a trip had occurred and stated that, in retrospect, he should have produced to investigators notes about McFarlane's mission. (Ibid., p. 212.)

Hill explained his failure to include certain notes from September 1985 by stating that the events described were not ones in which Shultz participated in a meaningful way.³²⁶ As Hill phrased it:

326 Hill Note, 9/11/85, ANS 001117; Hill Note, 9/16/85, ANS 001123; Hill Note, 9/17/85, ANS 001125-26; Hill Note, 9/21/85, ANS 001131-33.

[T]he outcome of this September event to us . . . was that this was a zero and if there was an outcome it was that our suspicions are heightened but it was not part of what the Secretary -- it did not make the cutoff in terms of the Secretary wanting to say what his specific role was to be.

My impression before the testimony was that he wanted to confine himself to what he had actually done, taken steps to do when he was confronted with the opportunity to make an impact.³²⁷

³²⁷ Hill, OIC Interview, 2/21/92, pp. 107-8 (emphasis added).

Hill claimed he omitted notes about McFarlane's trip to Tehran because Shultz and he did not fully understand the information. On Monday, May 19, 1986, five days before the trip, Hill asked Shultz if the Iran arms sales were discussed at a lunch with Casey, Weinberger and Poindexter. According to Hill's note, Weinberger told Shultz about an intelligence report that McFarlane ``wd [would] get arms there [to Iran]" and ``then they would see about hostg [hostages]." The note identifies the arms as anti-missile system parts.³²⁸

³²⁸ Hill Note, 5/19/86, ANS 001453.

The note plainly refers to McFarlane's mission. Yet Hill claimed that he did not include this note because he did not understand it:

Again, I don't understand this note. I didn't understand it then and because it's not in verbatim language, I can only speculate of [sic] what it might be and I hesitate to do that because I don't find enough in this, I didn't find enough in this to make anything even close to a stab in the dark about it.³²⁹

³²⁹ Hill, OIC Interview, 2/21/92, pp. 199-200. Hill admitted that the note deals with Weinberger informing Shultz of intelligence reports that McFarlane would get arms to Iran. (Ibid., pp. 200-1.) But Hill would not acknowledge that this shipment of arms related to the hostage situation, despite the phrasing, ``Bud w[oul]d get arms there and g008then they see about host[age]s." (Ibid., p. 201.)

Hill claimed that he omitted notes as not sufficiently reliable -- just ``a story we hear" <sup>330</sup> -- even when the sources were Poindexter and Weinberger. On May 22, 1986, Hill wrote: ``Pdx = Wbger. [Poindexter-Weinberger]" and then ``Deliveries g008are being made of our mil [military] equip [equipment] -- may see action today on release." <sup>331</sup> Hill admitted that Shultz should be informed at the time, because ``it's the principals, that is Poindexter and Weinberger, talking. . . ." ³³² But he omitted the note from his excerpts:

³³⁰ Ibid., p. 215.

³³¹ Hill Note, 5/22/86, ANS 001462.

³³² Hill, OIC Interview, 2/21/92, p. 215.

I don't think that I would have [brought this note to the attention of those who were preparing Shultz for his testimony], given what I was looking for because, again, this was -- it fits with the one we just discussed, a story we hear. It's not direct, the Secretary cannot credit it although I think that he feels that there is something going on here and he has to freeze and very shortly it doesn't happen, there is no immediate release of all the hostages.³³³

³³³ Ibid., p. 215.

Hill failed to produce some notes, even though given to Shultz before his testimony. For example, a note taken on January 14, 1986:

Arma [Armacost] g008= [meeting with] S [Shultz]. g008Hostg [Hostage] dealing still going on. Ollie [North] under pressure to produce before St [State] of Union speech. . . . (S): WH [White House] is running this. No comment 334

334 Hill Note, 1/14/86, ANS 001270.

Hill said he omitted it because the information was just another unreliable story about North's actions. "This document to me was part of the -- I don't mean to be impertinent at all but on the laughable cavorting of North." 335 Yet, he nonetheless included this document in the chronology he initially tendered to Shultz on November 8, 1986, because he "was not making judgments of significance" about the material he included in the chronology.336

335 Hill, OIC Interview, 2/21/92, p. 150.

336 Ibid. Hill also found humorous the information contained in an April 21, 1986, note quoting Armacost telling Shultz that "Bud [McFarlane] may show up in Tehran on Wednesday." (Hill Note, 4/21/86, ANS 001423.) This note was not included because "I treated this with levity and I didn't believe it." (Hill, OIC Interview, 2/21/92, p. 181.)

Lastly, there are instances where Hill downplayed the significance of information relayed to him by Shultz, claiming that Hill did not believe the information. After a January 7, 1986, meeting with the President, Shultz reported the following information to Hill, who recorded it in his notes:

g008Iran Polecat. g008P [President Reagan] decided go ahead. Only Cap [Weinberger] & I opposed. I won't debf [debrief] anybody about it. (TOWS for hostages) 337

337 Hill Note, 1/7/86, ANS 001263.

Hill testified that even though Shultz had told him that President Reagan had decided to go forward on "Polecat," Hill did not believe that Reagan had decided any such thing:

I didn't read it that way. . . . The national security adviser [Poindexter] would never allow the President to make a decision at an NSC or NSPG meeting. The President would give his views . . . and then go away and make a decision at some later point. . . . I said [to Shultz], "It's awful," but I wasn't reading this as an official decision.338

338 Hill, OIC Interview, 2/21/92, pp. 135-36.

Hill also asserted that even though this note depicts Shultz's knowledge of important events relating to the Iran arms sales, this was not the precise type of information Hill was seeking during his notes review:

[I]t's because with the Secretary's view of what the important points were, they were points at which he felt that there would be clear knowledge that an operation was taking place and that he could do something about it. That would be his recounting of what were his actions, not his recounting of what were other people's actions.339

339 Ibid., p. 139.

The note reflects a meeting with the President at which Shultz argued against the Iran initiative and lost. Hill said it did not reflect Shultz's actions, but "other people's actions."

Hill struggled to explain why he included this information in the chronology he prepared for Shultz on November 8, 1986, but excluded the information from the excerpts he later turned over to Sofaer's office and to outside investigators.

Clearly it is a matter of some significance. I feel that what we were -- when the testimony was going forward, what he [Shultz] was looking for was something that he felt he knew in terms of an operation as in the case of McFarlane's call to him [in] Geneva that he could actually take action upon.

I am now saying my own interpretation of this note at the time and it was something where he wasn't going to talk about it, therefore we did not discuss it, which was that the President at this time -- and this is my own recollection of my own thoughts -- had given an indication at this meeting that he was willing to consider anything to get the hostages out and that we could expect people to be running around, probably Ollie North and McFarlane, trying to cook up some kind of an operation, some kind of an arrangement -- again I'm speaking for myself -- that would come back, that they would take back to the President to say okay or not.

That's the kind of event that the Secretary felt -- when those events came forward, that's when he could do something himself where he was involved and not simply a listener and not simply letting someone else do something.³⁴⁰

³⁴⁰ Ibid., pp. 143-44.

Hill also claimed that the "TOWS for hostages" language was not a note of what Shultz said, but rather was Hill's guess as to what was going to happen.³⁴¹ But Hill could not explain where he learned what type of weapons were involved, if not from Shultz.³⁴²

³⁴¹ Ibid., pp. 136-37.

³⁴² Ibid., p. 137.

Whatever the credibility of Hill's various explanations, the excuses all share a fundamental problem: Hill received a memorandum from Sofaer and Bouchard on November 29, 1986, calling for the production of all documents -- including personal notes -- relevant to the Iran arms sales.

The plain terms of this memorandum from the chief legal and administrative officials at State required Hill to produce all of his notes that contain information relevant to the Iran arms sales. Hill had a simple explanation why he did not turn over all relevant notes. According to Hill, Sofaer orally told him that he did not have to comply with the terms of the November 29, 1986, memorandum. As Hill explained it, he had a conversation with Sofaer before the memorandum came out:

[Sofaer] had told me that I would have to obtain the [notes], have them in a secure place, have them close at hand, be ready to produce them as requested, and that because it already had been gathered together, they should be retained right where they were which was a few yards from his office and I should just hold myself ready which is the situation that I agreed to.³⁴³

³⁴³ Hill, OIC Interview, 2/21/92, pp. 41-42. Hill repeated this description of Sofaer's oral instructions regarding Hill's notes numerous times during the interview. E.g. *ibid.*, pp. 44, 50-51, 62-63.

Because of this understanding, Hill asserted in 1992 that "[n]o one ever asked me to produce any note," the November 29, 1986, memorandum notwithstanding.³⁴⁴ Phrasing things slightly differently, Hill elsewhere stated that by following Sofaer's instructions about keeping his notes ready and available, "constructively [his notes] were turned over to the legal adviser's office although they remained in the safe where they were held." ³⁴⁵ Hill claimed he assumed that Sofaer

and others in the legal adviser's office informed investigators that Hill's excerpts did not contain all relevant passages from his notes.³⁴⁶

³⁴⁴ Ibid., p. 43.

³⁴⁵ Ibid., p. 50; accord, *ibid.*, p. 60 (where Hill described his "constructive compliance" with Sofaer and Bouchard's November 29, 1986, memorandum).

³⁴⁶ Ibid., pp. 66-67, 70.

Hill went so far as to assert that holding on to his notes, instead of turning them over to Department of State legal counsel and to the FBI, affirmatively helped the investigation into the Iran arms sales:

Q: Mr. Hill, how many documents do you think law enforcement officials would have received if everyone constructively produced [their] notes such as you did?

A: Well, everyone shouldn't do that. That would be a terrible mistake. They should produce their documents. I fully agree with that.

I felt that what was being done here would be more effective and a superior way to serve the investigation, which I certainly wanted to serve. . . .³⁴⁷

³⁴⁷ Ibid., pp. 63-64.

Sofaer directly and sharply contradicted Hill's explanation. Sofaer acknowledged that Hill was supposed to retain his original notebooks, but that is where Hill and Sofaer's recollections diverged. According to Sofaer:

It was also true that [Hill] was required by [the November 29, 1986] memorandum, and I never excused this in any way, shape, or form, to review those notes and to provide me, among others, with information in those notes that was responsive to these demands.

You know, there are things you might forget after all the years, but that is not one of them.³⁴⁸

³⁴⁸ Sofaer, OIC Interview, 4/6/92, pp. 8-9.

During this same interview, Sofaer restated the point even more forcefully:

Every single person had a total duty, an absolute duty, to supply everything called for by [the November 29, 1986] memo and thereafter to supply everything relevant to Shultz's testimony so the Secretary wouldn't make a mistake in his testimony.³⁴⁹

³⁴⁹ Ibid., p. 28.

Sofaer explained that the reason he allowed Hill to retain possession of his notes "was because he [Hill] would be trusted to give us all the relevant information." ³⁵⁰ Sofaer "fully assumed that a thorough review had been made." ³⁵¹ Hill never informed Sofaer that he was forwarding only those notes that matched Shultz's recollection.³⁵² In fact, Sofaer stated that

³⁵⁰ Ibid., p. 39.

³⁵¹ Ibid., p. 41.

³⁵² Ibid., pp. 9-10.

the thing that enabled me to authorize Shultz to testify [only] to what he knew was that everything he didn't know that we had within our power and control we were going to give to the FBI, to the Tower Board, whatever we had then, to the Iran-contra committee on the Hill, to the Independent Counsel.³⁵³

³⁵³ Ibid., pp. 43-44.

Thus, Hill's claim that he and the legal adviser had an understanding about the limited scope of Hill's notebook review ³⁵⁴ was flatly contradicted by Sofaer.

³⁵⁴ Hill, OIC Interview, 2/21/92, pp. 71-72.

One point of conflict between Hill and Sofaer -- Hill's participation in the preparation of Shultz's testimony -- was resolved. Hill at first claimed he never compared his notes with Shultz's testimony, did not review Shultz's testimony before Shultz delivered it, never read Shultz's testimony, and did not know what that testimony was.³⁵⁵ Sofaer had a different recollection of the preparation of Shultz's summer 1987 testimony:

³⁵⁵ Ibid., pp. 102-4.

[Hill] would sit in on the meetings and watch things, read the drafts, comment on them. He played a substantial role. . . . He would comment on what the evidence showed about what the Secretary knew, how we ought to express it, how he understood it as a result. He was a full participant in preparing the Secretary for his testimony on each occasion that the Secretary testified.³⁵⁶

³⁵⁶ Sofaer, OIC Interview, 4/6/92, pp. 65-66.

When confronted with his December 7, 1986, note on Shultz's December 8, 1986, testimony, stating "ok, I /s/ [sign] off" on Shultz's December 8, 1986 testimony,³⁵⁷ Hill acknowledged that his earlier recollection was incorrect.³⁵⁸

³⁵⁷ Hill Note, 12/7/86, ANS 001995.

³⁵⁸ Hill, OIC Interview, 2/24/92, pp. 337-38.

Testimony from two State Department lawyers involved in the Department's response to congressional and criminal investigators corroborates Sofaer's recollection. Neither Elizabeth Keefer nor Michael Kozak, who were on the staff of the legal adviser's office, understood that Hill reviewed his notes for the limited purpose of supporting Shultz's memory of events. Both believed that Hill conducted a complete review of all of his notes in advance of Shultz's December 1986 testimony for the purpose of identifying all information relevant to the Iran arms sales.³⁵⁹ Both understood that Hill was fully obligated to comply with the terms of Sofaer's November 29, 1986, memorandum calling for the production of all relevant documents. Neither Keefer nor Kozak had excused Hill from complying with its production instructions; and, so far as they knew, neither had anyone.³⁶⁰ Each was under the impression that Hill had fully complied.³⁶¹

³⁵⁹ Keefer, FBI 302, 3/10/92, pp. 6, 10; Kozak, FBI 302, 3/4/92, pp. 3, 7, 11.

³⁶⁰ Keefer, FBI 302, 3/10/92, pp. 14-15; Kozak, FBI 302, 3/4/92, p. 6.

³⁶¹ Keefer, FBI 302, 3/10/92, p. 14; Kozak, FBI 302, 3/4/92, p. 6.

Keefer described Hill's role in preparing Shultz for his congressional testimony as substantive.³⁶² Kozak recalled that State Department legal counsel relied on Hill for the substance of the testimony.³⁶³

362 Keefer, FBI 302, 3/10/92, p. 13.

363 Kozak, FBI 302, 3/4/92, p. 5.

In the meetings where Shultz's testimony was being prepared, Hill's notes were considered Shultz's recollection -- even though Shultz took part in the meetings.³⁶⁴ Kozak recalled that the binder of notes that Hill had identified as relevant to Iran/contra was referred to as "the Bible." ³⁶⁵ Everyone viewed this binder of notes as the primary source of information concerning Shultz's knowledge of the Iran/contra matter, and used it to cross-check the factual accuracy of the testimony. Even Hill referred to this binder of notes as "the Bible." ³⁶⁶

³⁶⁴ Keefer, FBI 302, 3/10/92, p. 3.

³⁶⁵ E.g. Kozak, FBI 302, 3/4/92, p. 7.

³⁶⁶ Ibid., p. 5.

Overall, Hill's explanations as to why specific relevant notes were not turned over either to Sofaer's office or to the FBI were a combination of admitted errors and strained, inconsistent rationalizations. None of his stated excuses can be squared with Sofaer, Keefer and Kozak's clear memories that Hill, like everyone else, was required by Sofaer's November 29, 1986, memorandum to produce all notes in his possession that were relevant to the Iran arms sales. Hill alone asserted that he was called upon to identify only those notes that supported selected events recalled by Shultz, and that he was exempted from the production requirements of Sofaer's memorandum.

For the most part, Hill's state of mind and intentions in November and December of 1986 must be inferred from the notes that he did not produce and his various excuses for not producing them. But a more telling source exists in Hill's own notes. On November 21, 1986, Hill and Platt had a secure conversation in which Platt told Hill about a conversation Sofaer had with McFarlane:

MO [McFarlane] called Abe [Sofaer] + sd [said] he understood there are records in Dept [the Department of State] that cover the period & that they had been sent to Justice. Abe sd no records sent to DOJ [Justice], but he had been told some "alleged facts" from records & he had told DOJ in order to protect P [President Reagan]. Abe sd MO [McFarlane] shd [should] keep all g008his records. Abe sd DOJ has asked for all records -- specifically the Nov [November] 18, 1985 conversation. g008P auth [authorized] the investigation and they want our records.

CH [Charles Hill] raises hell.

Stop Abe for shit's sake! ³⁶⁷

³⁶⁷ Hill Note, 11/21/86, ANS 001878.

Hill claimed that his "intemperate outburst" meant only that "[i]t sounded like Sofaer was doing the wrong thing and so I was saying slow Sofaer down." ³⁶⁸ Hill denied being concerned about turning over all of his records, claiming instead that "I was concerned about things being said that were not well documented and . . . that Sofaer might conceivably be going off and giving 'alleged facts.'" ³⁶⁹

³⁶⁸ Hill, OIC Interview, 2/21/92, p. 271.

³⁶⁹ Ibid.

Questioning Platt

Nicholas Platt appeared before the Grand Jury on March 27, 1992.³⁷⁰ He had first been interviewed by Shultz's lawyers. The OIC asked Platt general questions about his actions in 1985 and 1986, and

then reviewed specific notes he took during that period. Unlike Hill but like Shultz, Platt claimed that he had virtually no independent memory of the events of 1985 and 1986. Platt stated that his notes were his memory.³⁷¹

³⁷⁰ Prior to Platt's appearance before the Grand Jury, he was interviewed voluntarily at the OIC. (Platt, FBI 302, 3/26/92.)

³⁷¹ Platt, Grand Jury, 3/27/92, pp. 17-18.

Despite this disclaimer, Platt did recall a few relevant points. First, Platt said he passed on "virtually everything" he heard about the Iran arms sales to Shultz.³⁷² This did not always mean speaking with Shultz directly. Platt would most often communicate the information to Hill.³⁷³ Platt believed that "passing information to Charles Hill was the equivalent of passing it to the Secretary." ³⁷⁴

³⁷² Ibid., p. 12.

³⁷³ Ibid., p. 8.

³⁷⁴ Ibid., pp. 10-11.

Platt had limited involvement in the preparation of Shultz's December 1986 congressional testimony. He "did sit in on meetings that [Shultz] had about his testimony with other advisors who were charged with preparing it." ³⁷⁵ According to Platt, Hill was one of those charged with preparing Shultz's testimony, working in conjunction with Sofaer and others.³⁷⁶

³⁷⁵ Ibid., p. 18.

³⁷⁶ Ibid., pp. 18-19. Platt's memory (like Sofaer's, Shultz's, Keefer's and Kozak's) conflicts with Hill's memory on this point. Hill claimed that he had little involvement in the preparation of Shultz's testimony. (Compare Hill, OIC Interview, 2/21/92, pp. 102-4, with Sofaer, OIC Interview, 4/6/92, pp. 65-66; Shultz, OIC Interview, 2/12/92, p. 151; Keefer, FBI 302, 3/10/92, p. 13; Kozak, FBI 302, 3/4/92, p. 5.)

Platt recalled receiving Sofaer's November 29, 1986, memorandum directing him and others to turn over all relevant documents, including notes.³⁷⁷ Beyond this basic recollection, Platt's memory of the document-production process was, by his own admission, "flawed." ³⁷⁸ He did not remember what guidance he received on how to handle his personal notes.³⁷⁹ He recalled reviewing his notes and marking relevant passages with paper clips.³⁸⁰ But Platt could not remember when he provided copies of these relevant notes to Sofaer's office.³⁸¹ Platt made no claim that Sofaer or anyone else had exempted him from the production required by the November 29, 1986, memorandum.

³⁷⁷ Platt, Grand Jury, 3/27/92, p. 22.

³⁷⁸ Ibid., p. 32.

³⁷⁹ Ibid., pp. 27, 33. Platt remembered that there were discussions of how notes were to be treated, but could not recall the substance of those discussions. (Ibid.)

³⁸⁰ Ibid., p. 34.

³⁸¹ Ibid., pp. 39-42.

Platt claimed to recall that he produced a limited number of notes on a specific subject on December 3 or 4, 1986,³⁸² but he acknowledged that a recent telephone conversation with Hill had "refreshed" Platt's memory of this production.³⁸³ Platt could not recall the purpose of this limited

production or the subject matter.³⁸⁴ Independent of Hill's reminder, Platt could not recall producing any notes.³⁸⁵

382 Ibid., p. 23.

383 Ibid., pp. 23-24.

384 Ibid., pp. 27-28.

385 Ibid., p. 29.

Platt acknowledged that he and Hill had discussed the areas of concern that had arisen in Hill's February 1992 OIC interview.³⁸⁶ Hill also reminded Platt of the various "phases" of the State Department's awareness of the Iran arms sales.³⁸⁷ Hill told Platt that, as a result of Hill's interview with the OIC, Hill felt that Shultz's testimony "in one place . . . [s]hould have been worded differently." ³⁸⁸

386 Ibid., p. 24.

387 Ibid., pp. 24-25.

388 Ibid., pp. 26-27.

Platt was questioned about several specific notes of his that were not produced to any investigators prior to the spring of 1991. Platt admitted in almost every instance that (1) the note appeared to be relevant, (2) he did not know why it was not produced, and (3) he may have overlooked the information under the pressure of the burgeoning crisis that ensued after the arms sales were publicly disclosed.

For example, Platt was asked about a note he took on September 16, 1985, regarding the Weir release.³⁸⁹ The note discusses conversations among Oakley, McFarlane and North regarding the mechanics of the hostage release and potential problems. Platt did not deny the relevance of the note, and could not explain why it was not produced:

389 Platt Note, 9/16/85, ALW 0036349.

Q: Why did you not produce this note, pursuant to the November the 29th, '86 memorandum?

A: I can't -- I cannot explain, other than to say that it related to -- this is a note that relates to the fact of Weir's having been released. It doesn't refer to arms for hostages, although it does mention Bud and Ollie. Anyway, I made it available later [in 1991]. I don't know why it wasn't released then. It was overlooked.

* * *

Q: You believe now it should have been produced?

A: Yes, I would think so.³⁹⁰

390 Platt, Grand Jury, 3/27/92, pp. 70-71.

Platt did not defend the omission of an October 4, 1985 note, which quotes Shultz as saying that he intends to speak with McFarlane about intelligence that points "toward 100 mil. [\$100 million] deal for spare parts for Iran to be delivered in Spain." ³⁹¹ Platt acknowledged that this was a significant note relating to the Iran arms sales:

391 Platt Note, 10/4/85, ALW 0036463.

I can only conjecture or speculate that it was -- that I overlooked it. I have no recollection of having decided not to send it. All I can say is that I was motivated by a desire to comply with the desires of the law enforcement agencies and did the best that I could at the time.³⁹²

³⁹² Platt, Grand Jury, 3/27/92, p. 80. Platt admitted that this note contradicted statements made by Shultz during his testimony that the State Department did not have access to intelligence reports regarding the Iran arms sales: "[the note] does indicate that the Secretary knew that [the intelligence reports] existed." (Ibid., p. 81.)

Likewise, Platt could not explain the non-production of a June 1, 1985, note that discusses NSC consultant Michael Ledeen's presence in Israel seeking "Israeli cooperation on Iran intelligence":
³⁹³

³⁹³ Platt Note, 6/1/85, ALW 0035751.

I can't recall why it wasn't produced. I can only speculate from the context and the appearance that the reference was hidden and there isn't a specific link between Iran and arms. There's no mention of arms here.

But I can't recall why it's not there. It may just have been overlooked.³⁹⁴

³⁹⁴ Platt, Grand Jury, 3/27/92, p. 49; accord, *ibid.*, p. 51 (regarding the 6/4/85 Note, ALW 0035767), p. 60 (regarding the 9/13/85 Note, ALW 0036332); p. 85 (regarding the 11/14/85 Note, ALW 0036734), pp. 91-92 (regarding the 11/26/85 Note, ALW 0036809); pp. 100-1 (regarding the 1/4/86 Note, ALW 0037024), pp. 101-2 (regarding the 1/14/86 Note, ALW 0037124); pp. 102-4 (regarding the 2/21/86 Note, ALW 0037404), pp. 112-13 (regarding the 4/3/86 Note, ALW 0037725).

As to some specific notes, including the two just discussed, Platt suggested that the information was hidden or obscure.³⁹⁵ As to others, Platt asserted that the hectic circumstances of November and December 1986 made it impossible for him to do the kind of careful review done by the OIC after it acquired a complete set of Platt's notes in 1991:

³⁹⁵ *Ibid.*, pp. 70, 49; accord, *ibid.*, p. 91 (regarding a November 26, 1985 note (ALW 0036809): "let me say that from the context of it, it's pretty well hidden"), p. 92 (regarding another November 26 note (ALW 0036813): "I believe it's hidden, and I missed it.")).

The milieu we were living in was one of very high pressure, a lot of events, a lot of activity, and review of notes -- it was very difficult for any of us to get the time off to do the kind of careful review of notes that this investigation suggests that we should have been able to do.³⁹⁶

³⁹⁶ *Ibid.*, p. 109.

Elsewhere, Platt stated:

Well, I can only say that there were a lot of things going on. There was a huge amount of material to screen. . . . All I'm saying is, when I was going through the review process, I was preoccupied with a lot of other things.³⁹⁷

³⁹⁷ *Ibid.*, p. 85.

But Platt acknowledged that some notes he omitted were obviously significant and should not have been overlooked.

Platt, no less than Hill, had his greatest difficulty explaining the omission of passages of notes containing critical information about the release of Jenco in July of 1986. The Department of State in 1987 produced a Platt note segment from July 26, 1986, that discussed some basic aspects of the Jenco release:

g008July 26, 1986Informal working group set up

-- Jencko out. Now with Amb / 10:50 plane arrives in Syria will 1330 Frankfurt leave via US Aircraft for Wiesbaden tomorrow 27th 9:00 AM.

ALDAC [All Diplomatic and Consular Posts] Sec [Shultz] approved Press Statement release this AM. Condolence message. --

ALDAC 398

398 Platt Note, 7/26/86, ALV 002739. The bottom portion of this note that Platt produced in response to Iran/contra investigators in 1986 and 1987, which mentions a ``Condolence message," apparently does not relate to Iran/contra. W. Averell Harriman, the former diplomat, Assistant Secretary of State and Governor of New York, died on July 26, 1986, and the Department of State released a condolence statement from Shultz later that day. (The New York Times, 7/27/86.)

The photocopy that the Department produced was cropped to remove the remainder of this page of Platt's notes, obliterating the following additional information:

-- Release of Hostage Jenco -- result of Polecat negotiations.

-- Presidential statement thanking Syrians arranged.

-- next one will be Anderson.

-- Dick [Murphy] calling Don Gregg. VP [Bush] may delay departure 399

399 Platt Note, 7/26/86, ALW 0038555. Platt's July 26 notes discuss an unrelated matter in between the Iran arms sales information Platt produced from this page and these redacted points.

The note continues on the top of the following page which was not produced at all:

from Frankfurt so he can.

-- Price. ITOW, side winders, 155 mm ammo. [ammunition] via the Israelis.

-- Weir was earnest money.

Charley Allen & Dewey Clarridge at the mtg

-- Armacost calls [Head of Defense Department component] -- real negotiation had been whether it was 1 or 2. 24 million -- 4 mil laundered thru Israel -- rest in equipment, for which, he implied, they are paying.

Ollie flying out tonight 400

400 Platt Note, 7/26/86, ALW 0038556.

When shown the information that had been cut off from the first page of his July 26, 1986, notes, Platt was nonplussed:

Q: Can you please tell us, Ambassador, why you chose to make a determination that that should be redacted?

A: I have no recollection of why it was redacted. I can only speculate that when the page -- I mean, the subject changed, and I didn't carefully read on to the rest of the page. There is absolutely no reason, I don't think, why -- I mean, on the face of it, one would -- would want to cut this out.

Q: ``Result of Polecat negotiations." It shows us that Jenco was released because of Oliver North, does it not, Ambassador?

A: I have no idea why I would want to hide that. Why would I want to hide that? 401

401 Platt, Grand Jury, 3/27/92, p. 129.

Platt later acknowledged: ``It came to me as a surprise that it was cut off where it was -- looked to me as if it looked like I had something to hide." 402

402 Ibid., p. 141.

He was confronted with the note taken on December 15, 1986, the day before Shultz's testimony before the SSCI, discussing ``Jenco" as an area of ``greatest vulnerability," apparently for Shultz, which then asks, ``Why did you avert your gaze." 403

403 Platt Note, 12/15/86, ALW 039344. Earlier in the testimony, Platt said he could not recall whether he told Shultz during a July 26, 1986, telephone call about the information Platt had learned concerning the true reason for Jenco's release. (Platt, Grand Jury, 3/27/92, p. 134.)

Asked to explain, he testified:

Q: To whom are these questions [in the note] directed?

A: I don't know. I can't remember. I can't tell from the context of the note. It's obviously something that was discussed, and I don't know who was saying what to who here. I'm hearing it.

Q: Well, let us look at it from another angle. You were not going to testify the next day, were you?

A: No.

Q: Charlie Hill was not going to testify the next day, was he?

A: No.

Q: Secretary Shultz was going to testify the next day. Right?

A: Yes.

Q: So, when questions concerning, ``What did you think? Why did you avert your gaze?" -- are you referring to anyone other than Secretary Shultz?

A: It's a question that's asked by somebody in the meeting, but I don't know who.

Q: I see. And so, why are people concerned on the eve of Secretary Shultz's testimony that Jenco is one of the areas of greatest vulnerability?

A: I can't tell. I don't recall.404

404 Ibid., pp. 139-40.

An obvious interpretation of the December 15, 1986, note is that Shultz was indeed told in July 1986 about the arms-for-hostages basis for Jenco's release. His advisers, in a meeting on the eve of Shultz's December 16, 1986, SSCI testimony, threw out hypothetical questions that Shultz might be asked about his reaction to Jenco's release: How did you think the Jenco release occurred? Why did you avert your gaze? Production of the note to investigators would invite additional questions.

Platt did not subscribe to this interpretation. He testified that (1) he had no idea why he would want to hide the Jenco information in the July 26th note, (2) he did not know why this information was redacted or omitted, and (3) he did not recall the meaning of the December 15th note.⁴⁰⁵

⁴⁰⁵ Ibid., pp. 129, 139-40.

Platt acknowledged that he had recently discussed the Jenco issue with Hill.⁴⁰⁶ Hill told him that he had found the July 1986 information about Jenco "hard to believe" at the time he heard it.⁴⁰⁷ Hill told him that he had overlooked his note on the real reasons behind the Jenco release.⁴⁰⁸

⁴⁰⁶ Ibid., p. 135.

⁴⁰⁷ Ibid., pp. 136-37.

⁴⁰⁸ Ibid., p. 137.

When asked whether he had recently discussed the Jenco matter with anyone other than Hill, Platt invoked the attorney/client privilege.⁴⁰⁹ Asserting a joint defense with Shultz, Platt asserted this privilege with respect to conversations with persons other than his own attorney, including Shultz's counsel.⁴¹⁰

⁴⁰⁹ Ibid., p. 135.

⁴¹⁰ Ibid. Subsequent correspondence revealed that Platt had an oral joint defense agreement with Shultz as to Iran/contra matters. (Letter from Platt's counsel, R. Kenly Webster, to Craig A. Gillen, 4/2/92, 018655.) Platt refused to waive the joint privilege. (Letter from R. Kenly Webster to Craig A. Gillen, 4/16/92, 018754.) Following Platt's refusal, Shultz's attorney stated that he could not waive the joint privilege unilaterally. As a result of this assertion of privilege, Platt never disclosed anything about the conversations he had in 1992 with Shultz or Shultz's counsel on the Jenco issue.

Independent Counsel decided that contesting Platt's assertion of a joint privilege was not an efficient use of limited resources. Platt's testimony showed signs of rehearsal.⁴¹¹ Even a successful attack upon the claim of privilege was unlikely to produce new information.

⁴¹¹ For example, near the start of his Grand Jury appearance in March 1992, Platt testified that it had been his practice during 1985 and 1986 to pass along to Shultz "virtually everything" he (Platt) heard on the subject of arms shipments to Iran. (Platt, Grand Jury, 3/27/92, p. 12.) Platt acknowledged that he did not attempt to evaluate the reliability or credibility of a piece of information on this subject before passing it along. But he then attempted to volunteer a distinction lessening the likelihood that he would report "wild rumors:"

As I recall -- as I recall, that would be -- that would be correct. I mean, I -- there might be wild rumors that would come out; I would -- normally, I would share those at least with Mr. Hill -- unless he already knew them or was telling them to me.

Q: Give us an example of what you had determined to be a "wild rumor."

A: Well, we had a report, as I remember, that a hostage had been released and that someone paid \$24 million for the release of this one guy. I mean, it was a rumor. That's an example.

(Ibid., p. 13.) Platt, himself, had not yet been asked about "the Jenco areas of greatest vulnerability" note. Platt attempted to reduce to a "wild rumor" his July 1986 note stating that Jenco had been released as part of a \$24 million arms deal, even though his December 1986 note on the eve of Shultz's testimony characterized Jenco one of the "areas of greatest vulnerability."

Conclusion

Shultz's Testimony Was Incorrect, But It Could Not Be Proven That It Was Willfully False

Independent Counsel's investigation established that central and important aspects of Shultz's testimony to congressional committees in late 1986 and 1987 regarding his knowledge of arms shipments to Iran were incorrect.

Shultz's carefully prepared testimony stated that he received no information regarding arms transfers to Iran during 1985 and 1986. It conveyed the impression that, because of his steadfast opposition to proposals to transfer arms to Iran, National Security Advisers McFarlane and Poindexter and the NSC staff had successfully concealed information from Shultz and the Department of State regarding actual arms transfers to Iran.

The contemporaneous handwritten notes of Hill and Platt demonstrate the inaccuracy of Shultz's assertions and the popular impression regarding his knowledge. Shultz was aware of Israel's TOW and HAWK missile transfers to Iran during 1985. He was aware of direct arms transfers from the United States to Iran during 1986. The notes also demonstrate that, to the extent Shultz did not have complete information regarding the arms transfers, his situation was caused as much by his desire not to know more as it was by efforts at the NSC staff to conceal information from him.⁴¹²

412 E.g. Hill Note, 12/9/85, ANS 0001246 ("g008NIGHTOWL . . . -- P [President Reagan] annoyed. McF [McFarlane] had him sold on it. Saw hostg [hostages] out + new stratg [strategic] rels [relationship]. So he annoyed w [with] me [Shultz] + Cap [Weinberger]. -- I will let them post me. I will not pursue or ask. But will take it over when it gets messy."); cf. Hill Note, 11/19/86, ALW 0056348 (S) [Shultz] -- We knew they [the NSC staff] [were] doing somethg [something]. Not totally innocent.").

In his 1992 interviews with the OIC, Shultz did not contest the accuracy of these notes and ultimately acknowledged that his testimony had been incorrect.

Notwithstanding the gravity of Shultz's errors while testifying before Congress in 1986 and 1987, Independent Counsel declined to prosecute because the evidence did not establish beyond a reasonable doubt that his testimony was willfully false. Contemporaneous notes exposed the inaccuracy of Shultz's assertions. However difficult it may be to believe that Shultz could forget events that troubled him so deeply, it was significant that none of the contemporaneous notes created in November and December 1986 suggest that Shultz in fact remembered more or different information than that to which he testified.

Hill Deliberately Withheld Key Notes and Prepared Inaccurate Testimony Regarding Shultz's Knowledge of Arms Transfers to Iran

Although Hill claimed a variety of explanations for his failure to produce relevant notes to Iran/contra investigators, the evidence indicates that Hill withheld these notes deliberately, in conjunction with his preparation of testimony portraying Shultz as uninformed of arms shipments to Iran and victimized by the NSC staff.

Hill withheld his notes deliberately. He was clearly instructed in 1986 to locate and produce relevant entries in his notebooks, and he was not exempted from this obligation by the legal adviser.

The direct correlation between notes not produced by Hill and Shultz's disclaimers of knowledge in official testimony also is too powerful to be an accident. Although Hill claimed that Shultz had directed him to locate only those notes that corroborated Shultz's recollections, the record suggests otherwise. Shultz instructed Hill, as he instructed all Department of State employees, to locate and produce all relevant information to investigators. Sofaer, Kozak and Keefer each corroborated Shultz's recollection on this point.

Hill's notes are also too legible, and his relevant notes too easy to locate, to support his explanation for their non-production. Shultz voiced the best criticism of Hill's failure to produce obviously relevant notes:

Well, I think I'd have to put it into the context but when you have the word Polecat underlined, I should think that's the kind of thing that would attract your attention.⁴¹³

⁴¹³ Shultz, OIC Interview, 2/12/92, pp. 58-59.

Although the evidence demonstrated beyond a reasonable doubt that Hill withheld relevant notes and helped prepare inaccurate testimony, Independent Counsel concluded it would not be appropriate to prosecute Hill, a subordinate to Shultz who had delivered that testimony and who was not the subject of a prosecution himself. Additionally, Hill's assertion that he was given an oral waiver from full document production by Sofaer could raise an issue of fact regarding events several years old that might create a reasonable doubt in the minds of jurors. Finally, the passage of time itself weighed against the prosecution of Hill, who promised little in the way of further investigative developments beyond what was contained in his extensive notes.

The Evidence That Platt Deliberately Withheld Relevant Notes Is Inconclusive

Independent Counsel's investigation in 1991 and 1992 also determined that Platt failed to produce a significant quantity of relevant handwritten notes to Iran/contra investigators. Platt's omissions are not as blatant as Hill's. His notes are more fragmentary and more difficult to review. Platt did review his notes repeatedly and made supplemental production to the legal adviser's office throughout the first few months of 1987.⁴¹⁴ Most importantly, in the spring of 1987, Platt left his position as executive secretary and was preparing to become United States ambassador to the Philippines. He was not involved in the continuing process of preparing Shultz's testimony and so, unlike Hill, he was not as aware of the degree to which the notes that had been produced in December 1986 became "the Bible" that defined Shultz's, and the entire Department of State's, information and knowledge regarding arms transfers to Iran.

⁴¹⁴ Memorandum from Platt to Executive Secretary Levitsky, 4/23/87, ALV 002717 ("I attach personal notes I have found which relate to the NDR [contras]. All the notes fall into the period Jan 1-July 1, 1985, . . . My personal notes on the contra issue for the period July 1985-November 1986 are already in Mike Kozak's possession, part of the collection made in connection with the Iran-hostages arms investigation."); Memorandum from Platt to Levitsky, 5/7/87, ALV 002712 (producing additional Platt notes regarding the contras); Memorandum from Quinn to Kozak, 5/11/87, ALV 002711 ("transmit[ting] additional notes from Ambassador Nicholas Platt in response to your request for documents relating to the Iran/Contra investigation").

Still, the non-production of Platt's highly relevant notes is troubling. In 1987, the Department produced an innocuous Platt note reflecting Jenco's release. The redacted portion, not discovered by investigators until 1991, reveals information linking Jenco's release to the NSC Iran initiative, weapons and ammunition. Platt had no explanation for this redaction. Whether it was done by Platt or someone else in the State Department document-production process is unsettled.

Finally, there is the question whether Platt and Hill colluded to withhold corresponding portions of their notes. Coincidence is unlikely. Platt's notes were produced to the FBI in December 1986

through Hill. Given Hill's more central role in the preparation of Shultz's testimony, even at that early date, it is possible that Platt's proposed note production in December 1986 was reviewed by Hill. Given the passage of time, the absence of direct evidence of collusion, and Platt's minimal role in the preparation of Shultz's testimony, it was determined not to seek criminal charges against him.