



Chapter 30

Donald T. Regan

Donald T. Regan was White House chief of staff from February 1985 to February 1987. He was forced to resign because he was unable to contain the continuing political damage being done to President Reagan by public exposure of the Iran/contra matters. In the White House, Regan controlled access to the President and oversaw his schedule. He attended President Reagan's national security briefings each morning and was present during the most significant White House meetings among Iran/contra principals.

Regan served the President throughout the Iran/contra period but he was not in a position to authorize operations. The area of inquiry, therefore, focused on actions he took in response to the November 1986 exposure of Iran/contra matters and in subsequent testimony about those matters.

Throughout November and December 1986, after the Iran and contra matters became public, Regan was in frequent contact with CIA Director William J. Casey, National Security Adviser John M. Poindexter, Attorney General Edwin Meese III and Defense Secretary Caspar W. Weinberger. He was less frequently in contact with Secretary of State George P. Shultz. There are no documented contacts between Regan and former National Security Adviser Robert C. McFarlane or U.S. Marine Lt. Col. Oliver L. North of the NSC staff during this period.

In early testimony about the November-December 1986 period, Regan recounted in colorful anecdotal terms his and President Reagan's surprise and shock at the details of Iran/contra matters as they purportedly became known to them. But Regan did not explain in any depth the steps that he and other top Administration aides took in response to the worst political crisis of the Reagan presidency.

Clearly Regan attempted to serve President Reagan's interests by protecting him from the political and legal damage of Iran/contra. The question was whether Regan, in concert with the President's other top advisers, helped choreograph a cover-up by agreeing to a false version of the arms sales to obscure legally questionable activity.

Independent Counsel did not charge Regan with a crime. Evidence of the apparent November 1986 cover-up of the President's knowledge and approval of the November 1985 HAWK missile shipment -- and Regan's participation in it -- was not developed by Independent Counsel until 1992, when he obtained previously withheld notes from Weinberger and Regan indicating that Meese appeared to have spearheaded an effort among top officials to falsely deny presidential awareness of the HAWK transaction. When Regan in 1992 was questioned about these events, he was forthcoming and candid in his responses. In addition, when Independent Counsel late in 1991 subpoenaed additional notes from Regan, he cooperated.

The Regan Notes

In 1991, Independent Counsel undertook a full review to determine whether Administration officials had complied with document requests. It was determined that White House production of Regan documents had been late and incomplete. There had been conflicting evidence whether he had taken notes during his tenure as White House chief of staff. He had stated in various testimony that he did not take or keep notes of important meetings. But his aides said he took copious notes with the expectation that he would write a book about his White House experiences.¹

1 In fact, Regan did write a book, *For The Record* (Harcourt Brace Jovanovich 1988), about his experiences in the White House. In his book (p. xiii) he stated: "All my life I have kept detailed notes of my workaday actions and conversations, and I did the same while I worked for the President."

Regan late in 1991 admitted that he had copies of relevant notes.² When subpoenaed, he granted investigators access to them. Of special interest to Independent Counsel were Regan's notes of the November 24, 1986, meeting of the President and his senior national security advisers in which Meese falsely stated that the President had no knowledge of the possibly illegal November 1985 HAWK missile shipment to Iran. These late-produced Regan notes conformed in crucial respects to Weinberger's notes of the same meeting, which also had been obtained only recently.

2 Regan admitted a life-long practice of taking notes. (Regan, Grand Jury, 5/8/92, pp. 5-22.) He said Independent Counsel may not have seen the notes he took and kept in a "book file" in preparation for writing a book. But he denied any intention to withhold notes and any conversations among Administration officials about not producing documents. He said any failure of his own to produce notes was due to inadvertence or misfiling.

Because Regan said he had only copies -- not originals -- of his notes, Independent Counsel on May 8, 1992, subpoenaed the White House for all original notes, notebooks and other documents created by or for Regan. The White House reported that it could not locate them, either in its own files or in the files of the Reagan Presidential Library.³

3 Letter from Rademaker to Barrett, 5/12/92, AKW 0086056-57.

Regan's Response to Public Exposure of the Iran Arms Sales

Regan repeatedly testified that he advocated full public disclosure of the facts of the Iran arms sales, following the first press revelations in early November 1986. But as November and December 1986 played out, Regan and other senior officials were not so much disclosing new information as begrudgingly admitting to facts appearing in press reports and emanating from congressional investigations.

On November 6, 1986, Meese and Regan met briefly with President Reagan in the afternoon. Regan did not recall the meeting.⁴ Regan's notes from that date suggest concerns about impending congressional inquiries:

4 Regan, Grand Jury, 8/12/92, p. 43.

Demos will start in

investigations

Hollings -- textile

Kennedy -- Meese

Any skeletons will come 5

5 Regan Note, 11/6/86, ALU 0139111.

On November 7, 1986, Regan had breakfast with Poindexter. In a computer note that evening to McFarlane, Poindexter said Regan "agreed that he would keep his mouth shut." ⁶

6 PROFs Note from Poindexter to McFarlane, 11/7/86, AKW 021625.

Several sets of notes of a White House meeting of President Reagan with his top national security advisers on November 10, 1986, state that Reagan urged the issuance of a public statement on the arms sales because the Administration was losing credibility.

In this November 10 meeting, Poindexter laid out a version of the Iran arms sales that essentially omitted the 1985 transactions and falsely asserted that U.S. officials discovered the early Israeli shipments by stumbling across a warehouse of Israeli-owned U.S. weapons in Portugal. Reagan did not dispute Poindexter's version, even though he had directly contrary information. Reagan said he did not question Poindexter's omission of the 1985 shipments because other officials in the meeting also knew about them. Reagan said he assumed Poindexter was addressing only those shipments that occurred after Poindexter became national security adviser in December 1985.⁷

7 Regan, Grand Jury, 5/8/92, pp. 96-97.

The public statement resulting from the meeting did not disclose any facts or even confirm that arms sales had occurred; it merely asserted that no laws had been broken in U.S. efforts to win the freedom of American hostages and that the President had the support of his advisers in those efforts.⁸

8 Statement by Principal Deputy Press Secretary Speakes on the American Hostages in Lebanon, 11/10/86, Public Papers of the Presidents, Ronald Reagan, 1986, p. 1539.

Regan did not specifically recall that Shultz disagreed with Poindexter after the November 10 meeting about the President's proposed public statement and that all of the President's advisers supported the Iran policy. Regan said he did recall that "Mrs. Reagan, Poindexter, and several others were upset with George Shultz in and around this time because he was using or saying one type of thing and the rest were saying something else and he seemed to be off making remarks that indicated he was in disagreement with the President on some of these matters." ⁹

9 Regan, Grand Jury, 8/12/92, p. 59.

On November 12, 1986, Regan met with Shultz, shortly before President Reagan and Poindexter briefed congressional leaders on the Iran arms deals. According to Regan's notes, Shultz expressed consternation over the Iran arms sales. Regan, however, urged Shultz to "stay on board":

Shultz came in to see me re Iran. Gave his side of why he disagrees with Pres' policies. I heard him out. Denies he had a hand in drafting "Finding" of Jan. 17 '86 on Iran and overtures to them. JP [Poindexter] had told me he was in room when Bill [Casey], Ed Meese, & JP were drafting.

Says this is swapping arms for hostages no matter what we say, and undercuts our efforts with allies, particularly Italians & [Italian Prime Minister] Craxi who want to sell arms.

Is going to tell Pres of his feelings. Urged him to stay on board. We getting murdered in Press. I want to go public. Pres, VP & JP saying no -- too risky.

He says I'm right, & he'll urge telling the story.¹⁰

10 Regan Note, 11/12/86, ALU 0139130-31.

In the November 12, 1986, briefing of congressional leaders, Regan noted that Poindexter, in response to a question from Senator Byrd, stated that there was "no transfer of material" in 1985 because it "took time to assess contact & issue finding." This was contrary to Regan's own knowledge of the 1985 shipments.¹¹ Regan conceded that he knew this but said he was not concerned about it at the time.¹²

11 Ibid., ALU 0139132-49.

12 Regan, Grand Jury, 5/8/92, p. 105.

Throughout November 1986, Regan was in frequent contact with Nancy Reagan, the President's wife, about mounting public furor over the Iran arms sales. On November 12, Regan noted a morning phone call with Nancy Reagan:

``Pres[ident] + 1st Lady very upset." . . . McFarlane -- told her we're going to have to dump hostages to save Pres[ident]'[s] reputation, if necessary She agreed. Risking Presidency.¹³

13 Regan Note, 11/12/86, ALU 0138701.

Regan explained:

Q: When you have down here ``Risking presidency," what was that a reference to?

A: That, similar to Watergate, he might be impeached; that we were risking the President's tenure in office, his presidency and his reputation. The longer this story persisted, the more the fingers were pointing at Ronald Reagan as either being inept, devious, or all of the above, and that we couldn't allow this situation to go on. We were going to have to end it somehow or other.¹⁴

14 Regan, Grand Jury, 5/8/92, p. 99.

Regan said the subject of impeachment was never openly discussed in the White House:

. . . it was a no-no word. . . . You never used the word impeachment except to yourself because that was something no one wanted to even think about, but as chief of staff I felt I should at least look that beast in the eye to see, you know, were we going up here to another Watergate, what are we doing here? ¹⁵

15 Ibid., pp. 110-11.

On November 13, 1986, President Reagan in a televised address admitted for the first time that the United States had been selling arms to Iran. The speech was short on details and misleading regarding the nature of the weapons shipments. Regan said the President's speech ``wasn't the whole truth," and it underscored Regan's growing concern about a lack of factual information coming from the NSC staff to the President.¹⁶

16 Ibid., p. 112.

By mid-November, Regan and Poindexter were briefing the press on the arms deals, essentially repeating the facts as given to congressional leaders on November 12 and in the President's November 13 televised address, with some additional details.

On November 16, 1986, The New York Times published an interview with Regan in which he said he was part of the White House ``shovel brigade that follow[s] parade down Main Street . . ." He boasted of successful damage control following other troubling incidents and suggested that the Administration would also prevail over the Iran flap.¹⁷ Regan had begun publicly blaming McFarlane for dragging the President into the arms deals.

17 The New York Times, ``Criticism on Iran and Other Issues Put Reagan's Aides on Defensive," 11/16/86, p. 1.

As controversy over the arms sales persisted, the President decided to hold a news conference on November 19, 1986, in an attempt to quell the turmoil. Instead, the President's performance only fueled the debate, particularly because he made several glaring factual misstatements about the role

of other countries in the arms sales. Regan said the role of Israel was the ``centerpiece" of Reagan's confusion

because Poindexter and I think it was Al Keel, who was then his assistant -- it may have been still Rod McDaniel, I'm not sure, but I have to think it was Keel -- were telling the President that he shouldn't speak up about Israel, that Israel's role in this should be downplayed, we should not feature it, and he should be cautious about acknowledging the Israeli role.¹⁸

¹⁸ Regan, Grand Jury, 2/26/88, p. 39.

Regan said the President was

stumbling all over the place and looking very inept and weak and willful during that press conference. Why? Well, he had had all the briefings but he was confused in his own mind because he knew some things that he was being told, ``Don't say." Other things he was being told ``Say it this way," and still other things he was being told to ignore. So the poor guy couldn't get it straight.¹⁹

¹⁹ Ibid., 5/8/92, p. 113.

By the time of the President's news conference on November 19, 1986, Regan had privately briefed some reporters and told them that third countries had been involved in the early arms shipments to Iran. He said in a November 14, 1986, press briefing that the United States had decided in the summer of 1985 to allow the shipment of defensive arms in response to a ``request" by a third party: ``And we agreed that if that third party wanted to sell weapons of that same nature as we were discussing, we would not object to that." ²⁰ This admission by Regan caused reporters to challenge later statements made by President Reagan on November 19, when he said there were no third countries involved in the arms shipments. Consequently, the White House was forced to issue a correction of the President's statements following his press conference.

²⁰ Transcript of Press Briefing, 11/14/86, p. 5.

Following the press conference, Shultz called Regan to schedule a meeting with the President to discuss factual problems in the President's statements. Regan arranged a meeting for Shultz and the President for the following afternoon.

In advance of his meeting with the President, Shultz met with Regan at 10:45 a.m. on November 20, 1986, to discuss inaccuracies in the President's press conference. Afterwards, Shultz told Charles Hill, his executive assistant, that he had:

A very hard conversation w DR [Regan]. Went through all the points, errors. Bill Rogers to look into it. P [President], w [with] VP told Pdx [Poindexter] of my telling him things were wrong -- sh[ould] convene a meeting to go over what everybody knows & get it together. On Monday. P [President] will think it over at ranch.

I s[ai]d that's a formula for catastrophe. Have to make decisions. Here they are. Make them. You can't wait around. The longer you wait the worse it gets. Not a matter of getting our lines straight and work as a team. Think of the future.

Don [Regan] seemed v. subdued. Feels maybe his staff work bad. My comments break into a sense of unity over there that they know what they are doing.

Some NSC guy I overheard there scoffing at us saying we didn't know. Pretty soon they'll say we ran it all.

After lunch I'll call him again. What will you do. Today. Tonight. At C.D. [Camp David] this weekend

* * *

DR [Don Regan] not taking charge & VP dug in too. Not taking strong role either.²¹

21 Hill Note, 11/20/86, ANS 0001866 (emphasis in original).

Later on November 20, Shultz met with the President and Regan in the White House residence from 5:15 p.m. to 6 p.m. Shultz complained that factual misstatements by the President would not withstand scrutiny. Shultz specifically mentioned the November 1985 HAWK shipment as a clear arms-for-hostages swap. President Reagan acknowledged that he knew about the shipment but argued that it did not represent arms for hostages.

Shultz's recounting of the White House meeting to Charles Hill indicates that Shultz made little headway in impressing on the President the seriousness of his concerns:

Hot & heavy. Argued back & forth. I didn't shake him one bit. The press is the problem. His material is diff. he says. We can straighten it all out Mon. He refuses to see we have a problem. So I never got to what should be done. Nancy was not there. I had hoped she wd help.

* * *

I'll go to the mtg Monday, but then just make it clear I have to resign. . . .²²

22 Ibid., ANS 0001871.

Regan played no visible role in the November 20, 1986, drafting of the congressional testimony of Casey and Poindexter for the next day, although Casey told CIA Deputy Director Robert Gates in a taped phone call during the week of November 18 that he planned to speak to Regan about the testimony.²³ Regan did have contact with both Casey and Poindexter on November 20. Regan met Casey briefly at 3 p.m. He said Casey told him of financial irregularities in the Iran arms transactions.²⁴ Then after attending the meeting between Shultz and President Reagan, Regan met with Poindexter from 6:12 to 6:45 p.m.²⁵

23 PRT-250 Call from Gates to Casey, 11/18/86.

24 Regan, FBI 302, 3/6/91.

25 Poindexter Appointment Schedule, 11/20/86, AKW 044200.

Regan said he finally got a copy of the NSC chronology from Poindexter on November 21, 1986. David Chew, White House staff secretary, had alerted him after the November 19 press conference that he had seen North with a chronology of the arms sales, but North had refused to give Chew a copy. Regan gave the chronology to White House Counsel Peter J. Wallison to review, expressing doubts about its accuracy.

Legal Concerns: White House Counsel Questions the 1985 Shipments

Throughout November 1986, White House Counsel Wallison, a close Regan adviser, repeatedly raised with Regan his concerns about possible legal problems of the Iran arms sales. As the facts of the shipments became clearer, Wallison's concerns intensified, peaking on November 21 when he first learned of a possibly illegal November 1985 HAWK shipment.

Wallison's diary reflects that he reported facts to Regan as he learned them, but Regan did not share with Wallison his own knowledge of the transactions. The diary shows that Meese was firmly in charge of exploring the arms sales and containing their legal ramifications. Wallison was excluded.

Wallison was concerned that Meese was not the proper person to conduct the investigation and that Regan was unwilling to intervene in the matter.

Wallison wrote in his diary that on November 7, 1986, he first raised concerns with Regan about the legality of the Iran arms sales under the Arms Export Control Act (AECA). At that time Wallison had not focused on the 1985 shipments, because he had no facts about them. According to Wallison, Regan told him to review the AECA questions with Poindexter. At a meeting the same day, Poindexter told Wallison that "the AG [Attorney General] had been involved from the beginning in this matter and should be the lawyer consulted on any other issues of legality." 26

26 Wallison Diary, 11/7/86, ALU 0138211.

On the morning of November 10, 1986, Wallison again raised his concerns with Regan. Wallison wrote in his diary that he was "unhappy" with a public statement issued by the White House that "all laws had been complied with. I was told that this is what the AG wanted said." 27 On November 11, 1986, Wallison discussed some of his concerns with David Doherty, CIA General Counsel, and gave Regan a memo outlining the legal questions. On November 12, 1986, Wallison told Regan that "unless the operation could be portrayed as a diplomatic move, it would have had to have been reported as a covert action in advance." 28 Regan suggested that Wallison raise the issue with Meese.

27 Ibid., ALU 0138220.

28 Ibid., ALU 0138221.

Wallison called Meese on the morning of November 12, 1986, and found out he was in Poindexter's office. Wallison asked Poindexter's aide Paul Thompson, the NSC counsel, if he could join the meeting. After checking, Thompson "returned in a minute with the statement that Poindexter and Meese were 'discussing something else.'" 29

29 Ibid., ALU 0138222.

On November 13, 1986, Wallison told Regan he had concluded that the AECA placed an "absolute prohibition" on arms sales to Iran without prior notice to Congress. At an early afternoon meeting to prepare President Reagan's televised speech, Poindexter's deputy Alton Keel "exploded" when Wallison tried to omit a line stating that all laws had been complied with; Keel said that this is what the President, the attorney general and the national security adviser wanted. Wallison reached Meese late in the afternoon to discuss the AECA, and Meese said he would have Assistant Attorney General Charles Cooper call him. When Cooper telephoned Wallison, Cooper said he was "relying on a theory developed by the State Dept. in 1981 that there was no need to comply with the AECA at all if the export is part of an intelligence operation." 30

30 Ibid., ALU 0138223.

At about this time, the White House made public the fact that the President in a covert-action Finding in January 1986 had authorized the arms sales, in conformance with the legal theory Cooper had expounded to Wallison. On November 15, 1986, The Washington Post published an interview with Poindexter in which he stated: "[The] finding only existed in its original form in my safe." 31 The New York Times reported that, according to someone who had seen the order, a classified executive order (presumably the Finding) explicitly said Congress was not to be told of the Iran arms sales because of "security risks." 32 Other news reports quoted White House spokesman Larry Speakes confirming CIA involvement in the arms sales.

31 The Washington Post, "Reagan Ordered Casey to Keep Iran Mission from Congress; Written Notice Conflicted with CIA Chief's Pledge," 11/15/86, p. A-1.

32 The New York Times, "White House Says CIA Had Role in Iran Operation," 11/15/86, p. 1.

On November 18, 1986, Wallison convened a meeting of general counsel -- including Thompson, Abraham Sofaer of the State Department, Lawrence Garrett of the Defense Department, Cooper, David Doherty of the CIA and a Joint Chiefs of Staff lawyer -- to agree on common legal theories to support the arms sales in upcoming congressional testimony. According to Wallison, Cooper was surprised to learn of a September 1985 Iran arms shipment and said he would ask Meese for more facts.³³ Wallison, Garrett and Sofaer wanted an NSC chronology of events, but Thompson told them he doubted that one would be made available.³⁴

³³ In fact, the Israeli sale of 504 U.S. TOW missiles to Iran occurred in two shipments, one in August 1985 and a second in September 1985.

³⁴ Wallison Diary, 11/18/86, ALU 138227.

The next day, in preparation for the President's November 19, 1986, press conference, Meese said it would be best for President Reagan to cite the Attorney General as the authority on legal issues, according to Wallison.³⁵

³⁵ Ibid., 11/19/86, ALU 138231.

On November 20, 1986, Wallison in the late afternoon met with Cooper and Thompson, who, according to Wallison, appeared shaken after having reviewed a draft of Casey's congressional testimony, which was to be given the following day. Then Wallison received a call from Sofaer, who asked Wallison whether he knew about the November 1985 HAWKs shipment; Wallison said he did not. Wallison asked Cooper and Thompson whether they had heard about this, and they said no. Wallison considered this the most serious disclosure of all.³⁶

³⁶ Ibid., ALU 0138235-36.

Wallison told Regan of the November 1985 HAWKs shipment on the morning of November 21, 1986, noting that it meant that the arms shipments in which the United States was involved predated the January 1986 covert-action Finding, which authorized the later shipments. Regan had known of the HAWK shipment; he was present with President Reagan in Geneva when McFarlane alerted the President to expect it. Regan apparently did not share with Wallison the facts as he knew them, even though he was seeking Wallison's legal guidance.³⁷

³⁷ Regan was with the President in Geneva in November 1985 when McFarlane briefed them and Shultz on the HAWK shipment.

Regan could not explain why he did not inform Wallison of his own knowledge of the November 1985 HAWK shipment, but he denied attempting to hide that fact from Wallison.³⁸ Asked whether in the November 1986 assembling of facts about the Iran arms sales he ever volunteered to anyone his own knowledge of the HAWK shipment, Regan said he did not because he was not asked.³⁹

³⁸ Regan, Grand Jury, 5/8/92, p. 133.

³⁹ Ibid., 8/12/92, pp. 61-62.

The Weekend Probe

Late on the morning of November 21, 1986, President Reagan, Regan, Meese and Poindexter met in the Oval Office to discuss the need to reconcile differing versions of the facts of the Iran arms sales. By this time, it was obvious that there were serious discrepancies in the details of the arms deals laid out by the principals. It was also clear that the November 1985 HAWK shipment posed serious legal problems.

Regan said his memory of the Oval Office meeting was "hazy," but "[t]he gist of it was that the thing didn't hang together. Again every time you seemed to have one piece nailed down, something else popped up that negated that or changed that. It was a fluid situation." Regan said Poindexter suggested that they let the matter blow over, but Meese wanted to investigate. Regan said he got angry and said, "Let's get this thing buttoned up once and for all." 40

40 Ibid., 2/26/88, pp. 52-53.

Regan said the need for Meese's weekend investigation arose from factual discrepancies that became apparent in the November 20, 1986, preparation of Casey and Poindexter's congressional testimony. But Regan also cited pricing information available in highly reliable intelligence reports about the arms sales as a factor that prompted the investigation, just as Meese stated several days later in his November 25, 1986, disclosure of the Iran/contra diversion.

Regan in later testimony reasserted that highly reliable intelligence reports helped precipitate the weekend investigation. He said the intelligence "was one of the things that was puzzling the Attorney General from it and also the State Department." Regan said the intelligence reports

gave the Attorney General the first clue that somebody wasn't telling the straight story because we had [intelligence reports] that indicated the Iranians were paying X but we were only getting Y and there was a difference, and the Attorney General was trying to reconcile why would the Iranians be [paying] a price higher than we were showing they were getting and they couldn't do that.⁴¹

41 Regan, FBI 302, 7/14/87, pp. 69-70.

This would support the view that Meese was looking for evidence of a funding diversion when he initiated his weekend probe.⁴² Independent Counsel could not find other supporting proof of this.

42 Meese, in disclosing the Iran-contra diversion at the November 25, 1986, press conference, alluded to information in the highly reliable intelligence reports as a reason he undertook the weekend investigation. In fact, DOJ official John McGinniss spent the early morning hours of November 22, 1986, reviewing the reports, after Meese and his top aides learned that Senate Select Committee on Intelligence members had based some of their questioning of Casey on the basis of this intelligence. Further circumstantial evidence that Meese and his aides were looking for reasons to explain pricing irregularities is the fact that rumors of a diversion were already circulating at the CIA, that some CIA officials had knowledge of it, and that even State Department officials before the diversion discovery were suspicious of Southern Air Transport's role in both Iran and contra activities (according to Charles Hill's notes and a comment by Shultz to Meese about a possible mixing of the two activities in a interview on the morning of November 22, 1986).

At 1:45 p.m. on November 21, 1986, Regan called Wallison into his office to tell him about Meese's pending investigation. Wallison raised concerns about a conflict of interest in Meese investigating a White House matter. Regan gave Wallison a copy of the arms sales chronology he had obtained from Poindexter and asked Wallison to review it and suggest questions for the upcoming November 24 meeting at which Meese was to present his findings. Wallison did so in an unsigned, undated memo delivered to Regan's house on Friday, November 21, 1986.⁴³

43 Memorandum from Wallison, circa 11/21/86, ALU 0138936.

Regan's Contacts During the November 22-23, 1986, Weekend

Regan described his contacts with Casey and other top officials over the November 22-23, 1986, weekend only in vague terms:

There were lots of phone calls back and forth, nothing specific with the Attorney General. Casey had called me some point along the way here and I was unable to get him on Friday and I'm not sure whether I went out Friday night or did something and therefore on Saturday tried to get back to Casey and I recall missing him and then I'm not sure whether we finally did talk about. I'm inclined to say, yes we did talk over the weekend but it was strictly he wanted to tell me that his testimony up on the Hill had gone well and he thought he had discussed the subject in enough detail to satisfy the House Intelligence Committee.⁴⁴

44 Regan, FBI 302, 7/14/87, p. 61.

Regan said he received calls over the weekend from officials who were going to appear on the Sunday television talk shows, but "I was no part of the investigation nor was I questioned." ⁴⁵

45 Regan, Select Committees Testimony, 7/30/87, p. 129.

On Saturday, November 22, 1986, Regan called Casey at 2:45 p.m., and at 2:51 p.m. Casey called Regan, apparently while Casey was having lunch with Poindexter and North in Poindexter's office.⁴⁶ According to Regan's "Chief of Staff Calls" phone log, Regan called Casey again on Saturday at 4:53 p.m. and at 6:45 p.m. On Sunday, November 23, 1986 at 9:52 a.m. Regan called Casey. At 12:35 p.m. Meese called Regan.⁴⁷ The substance of these calls could not be determined.

⁴⁶ The Select Committees asserted that Regan called Poindexter while Poindexter was having lunch with Casey and North on November 22, 1986. When asked about this by the Select Committees, Regan said he probably called Poindexter to get the answer to a technical question in anticipation of the Sunday talk shows. (Regan, Select Committees Testimony, 7/30/87, p. 130.) Records obtained by OIC, however, do not indicate that Regan called Poindexter at all; the call by Regan to Poindexter's office may have been recorded as his 2:45 p.m./2:51 p.m. calls with Casey.

⁴⁷ Meese Phone Notes, 11/23/86, AMS 000654.

November 24: Regan Learns of Meese's Discovery of the Diversion

On November 24, 1986, Regan met throughout the day with the President and other senior advisers. Meese testified that he informed the President and Regan on November 24 of his weekend discovery of the diversion. But November 24 proved to be significant in another respect: At an afternoon meeting of the President and his senior advisers (including Regan), Meese informed the group that the November 1985 HAWK missile shipment to Iran was possibly illegal. He stated, falsely, that the President was not aware of the transaction.

Regan's notes of the November 24, 1986, meeting, obtained early in 1992, confirmed and illuminated notes of the same meeting taken by Caspar Weinberger. Regan asked the key question at the meeting: Did the President acquiesce in the November 1985 HAWK shipment? It was one of a list of questions prepared for him by Wallison.

Regan's notes reflect "DTR [Regan] asked about shipment of HAWK missiles to Iran in Nov." ⁴⁸ Weinberger's notes are more specific: "Don Regan: Did we object to Israeli sending Hawks shipment missiles to Iran?" ⁴⁹ Weinberger's notes reflect an initial response by Poindexter that "From July '85 to Dec. 7 McFarlane handled this all alone -- no documentation . . ." Regan's notes do not reflect Poindexter's response. But both sets of notes indicate that Meese gave a lengthy answer to Regan's question, informing the group:

⁴⁸ Regan Note, 11/24/86, ALU 0139378.

⁴⁹ Weinberger Meeting Note, 11/24/86, ALZ 0040669KK.

Shultz told in Geneva by Bud [McFarlane] -- delivery of weapons & maybe hostages out. Didn't approve. Pres only told maybe hostages out in short order.

Plane unable to land in Iran. Smaller plane arranged only 18 missiles aboard -- wrong ones. No specific ok for HAWKS [.] Returned in Feb. from Israeli stocks.

Bud told Geo. [Shultz] hostages out first, then arms in. Did not take place.

Maybe a violation of law if arms shipped w/o [without] a finding. But Pres did not know -- Cap [Weinberger] denies knowing. Israelis may have done this on their own. But it was a low level contact that did this, probably using Pres' name.⁵⁰

⁵⁰ Regan Note, 11/24/86, ALU 0139378-79.

Independent Counsel questioned whether Regan had agreed with any of the other participants before the meeting to ask the question that prompted Meese's response. Regan denied that he had.⁵¹

⁵¹ Regan, Grand Jury, 5/8/92, p. 136.

Regan already knew the true answer to the question that he asked, from his direct participation in the November 1985 briefing in Geneva that McFarlane gave the President about the impending HAWKS shipment. Regan said he did not remember whether he told Wallison he already knew the answer.⁵² Regan said virtually all of the other meeting participants knew Meese's statements regarding the state of President Reagan's knowledge to be incorrect.⁵³ Regan said he, the President, Vice President Bush, Shultz, Poindexter, and probably Casey knew the statements were wrong; he was uncertain about Meese's knowledge: ⁵⁴

⁵² Ibid., p. 135. In the Grand Jury on 8/12/92 (p. 87-88) Regan said he may have discussed with Wallison "some of the possible answers" to the questions Wallison prepared for the November 24, 1986, meeting.

⁵³ Ibid., 5/8/92, pp. 141-54.

⁵⁴ Ibid., 8/12/92, pp. 94-97.

Q: Can you explain to us why people who were witting about the Presidential knowledge and approval of the November Hawk shipment did not speak up during this meeting to correct the record on a matter that the Attorney General focused on as possibly dealing with a violation of American law?

A: I can only describe as best I can the mental attitude of one of them, to wit, myself; why didn't I speak up at that point. First of all, he said it's a possible violation. Wallison had told me a possible violation. We had not had an opinion that yes, it is a violation for this, this, and this reason. Obviously we were waiting to be told specifically is this a violation. That's my attitude now, right or wrong. Second, I was very concerned about the diversion of funds, what is this all about? What new turn is this Iranian arms shipment going to take with diversion of funds? So that was on my mind. Before I start an outburst in this meeting and getting everybody upset, let's get the rest of the facts. Maybe we have found why we had been so puzzled as to why we couldn't get a chronology. So I was waiting for the Meese meeting with the President before speaking up on that particular subject, that is the Hawk missiles in '85. . . .

Q: Was your attitude that until we know that this was not a violation of the law, I'm not going to be the one to announce to this group that the President knew and approved it?

A: Very probable.⁵⁵

55 Ibid., 5/8/92, pp. 154-57.

Regan on November 25, 1986

On November 25, 1986, Regan's day revolved around public disclosure of the Iran/contra diversion and deciding how to contain the public firestorm that was sure to follow.⁵⁶

⁵⁶ Regan called Meese at 6:30 a.m. Meese received the message from his driver while he was at Casey's home, and Meese returned the call from there. Meese testified that Regan told him he had determined overnight that he wanted to talk to Poindexter at 8 a.m. and tell him he should resign. Meese said he did not tell Regan he would be meeting with Poindexter before then. Meese said that on November 24, 1986, Poindexter had expressed a desire to hear from Meese whether he would have to resign, and "so I felt an obligation, him having told me that and Don having told me what his views were, to impart that information to Admiral Poindexter before Mr. Regan talked to him." (Meese, Grand Jury, 2/17/88, pp. 80-84.)

According to Poindexter, Meese told Poindexter at their Justice Department meeting to submit his letter of resignation. Poindexter went back to the White House, left a message in Regan's office that he wanted to meet with him, went back to his own office to eat his breakfast, "and a few minutes later Don Regan came in, and I told him that I was going to resign." Poindexter said he does not recall Regan asking him whether he told the President about the diversion. Poindexter testified there was no scolding or reprimand. (Poindexter, Select Committees Testimony, 7/16/87, pp. 88-89.)

There are no known notes of President Reagan's 9:00 a.m. meeting with Vice President Bush, Regan and Meese, or of President Reagan's 9:38-9:55 a.m. meeting with Vice President Bush, Regan and Meese and Poindexter, at which Poindexter resigned.

According to Wallison, Regan told him and another Regan aide, Dennis Thomas, on November 24, 1986, that the diverted payments had been made in November 1985 for the HAWKs, and he asked Wallison whether that was unlawful. Wallison said if the money were U.S. money it would be illegal, but if it were Israeli money the situation was not as clear.⁵⁷

⁵⁷ Wallison Diary, 11/24/86, ALU 0138242.

On November 25, 1986, Wallison noted a significant change in the story from what Regan had told him the previous day. In a meeting with congressional leaders at 11 a.m., Meese described the transaction unclearly, dating the diversion as taking place in 1986. Dennis Thomas asked Wallison to pass a note to Meese to the effect that he should specify that the money was deposited in the Swiss account in the fall of 1985. Wallison handed the note to Regan for Meese, but Regan returned the note saying the events occurred in 1986. "This was not what Regan had told us yesterday, nor was the fact that the arms involved -- according to the AG's account -- were US rather than Israeli arms," Wallison wrote. "Thomas and I vividly recalled Regan's talking yesterday about Hawk missiles with the Star of David on them." ⁵⁸ Wallison later told OIC that he did not follow up on the issue of whether the diversion had occurred in relation to the HAWKs shipment.⁵⁹

⁵⁸ Ibid., 11/25/86, ALU 0138244.

⁵⁹ Wallison, FBI 302, 10/5/92, p. 12.

Regan's notes of the briefing of congressional leaders on the morning of November 25, 1986, show that Meese made no mention of 1985 shipments in connection with the diversion:

In 1986 -- 4 arms shipments Feb, May, July, Oct 29. Israel sent arms to Iran who previously had deposited money in bank acct. Israel overcharged. Iran paid to Israel -- Israel put over charge into Swiss acct (3 of them) Calero of Contras established these. Contras drew funds total value \$10-\$30

myn [million] from 3 shipments. Ollie North knew of this -- Poindexter had suspicions did not investigate. Did not question it. Happened 3 times in 1986.⁶⁰

60 Regan Note, 11/25/86, ALU 139169.

President Reagan opened a press briefing to announce the Iran/contra diversion shortly after noon on November 25, 1986. After stating that he did not know certain unspecified details of the arms sales and that North had been fired and Poindexter had resigned, the President turned the floor over to Meese, who disclosed the diversion. Reagan, Regan and Weinberger watched Meese's briefing on television in a room off the Oval Office.

Regan's Changing Testimony About His Contacts With Casey

Regan testified that he did not learn of the Iran/contra diversion until Meese told him about it on November 24, 1986. The record is murky, however, regarding when Regan learned of financial problems in the Iran arms sales. Regan testified repeatedly that Casey informed him of the problems generally. But Regan's testimony regarding the timing and specifics of his knowledge was inconsistent, placing it as early as October 1986 or as late as November 20, 1986:

-- Asked by OIC on July 14, 1987, whether he had any conversations with Casey in October 1986 about Roy Furmark,⁶¹ Regan said no. "Casey did tell me on or about the time that the story was breaking in Lebanon that he had had a Canadian contact who was telling him that this story was getting around in the Middle East." ⁶² Regan said Casey did not initially mention money worries in connection with the Canadian: "It was only later that I became aware that it was the Furmark story, the name Furmark, and that fact that the Canadians were actually looking for money."⁶³ . . ."

⁶¹ Furmark, a long-time Casey acquaintance, was the New York businessman and partner of financier Adnan Khashoggi who personally communicated to Casey in October 1986 threats of exposure of the Iran arms sales by disgruntled Canadian investors.

⁶² Regan, FBI 302, 7/14/87, p. 92.

⁶³ Ibid., pp. 93-94.

-- Regan in a congressional deposition on July 15, 1987, said Casey told him about an unnamed Canadian contact on November 3 or 4, 1986: "Casey had told me without using the name Furmark that a Canadian friend of his had told him that the news of McFarlane's visit and arms shipments by us and Israel to Iran was pretty well known in certain circles, and that this thing was coming unglued." ⁶⁴

⁶⁴ Regan, Select Committees Deposition, 7/15/87, p. 76.

-- Regan in the Grand Jury on February 3, 1988, said Casey mentioned Furmark's involvement in the arms deals to him in late October 1986.⁶⁵

⁶⁵ Regan, Grand Jury, 2/3/88, p. 38. Regan told the Senate Select Committee on Intelligence on December 16, 1986, that Casey contacted him in late October 1986 about the arms sales, but Regan said the contact centered on Casey's request for a copy of the arms-sales Finding. Regan said he told Casey he did not have a copy of the Finding but Poindexter might. "So, later I said to Poindexter, how come we don't have a copy of that Finding?" Regan testified. "And he said I'll tell you why. He said, there's only an original and it's in my safe. I never made a copy of it." (Regan, SSCI Testimony, 12/16/86, p. 31.) Regan later told OIC that Casey wanted the Finding in late October 1986 because of an impending arms shipment to Iran. (Regan, FBI 302, 7/14/87, p. 92.)

-- In an interview with OIC on March 6, 1991, Regan said he met with Casey on November 20, 1986, and Casey at that time told him about financial problems and the involvement of Furmark and

Khashoggi in the Iran initiative. Regan said that he probably shared what he learned from Casey with Wallison.⁶⁶

⁶⁶ Regan, FBI 302, 3/6/91, p. 7. Wallison's diary does not reflect a conversation with Regan about Furmark and Khassoghi on November 20, 1986.

There is evidence that Regan was Casey's choice as the person who should be informed about Iran arms sale money problems. Furmark said he met on November 24, 1986, with Casey at the CIA and told him that arms financier Adnan Khashoggi had invested \$25 million in the Iran transactions, and that millions of dollars were unaccounted for. Furmark told Casey that arms dealer Manucher Ghorbanifar believed the excess money had gone to the contras. According to Furmark, an excited Casey tried to call Donald Regan but he was not in, so Casey called North.⁶⁷

⁶⁷ Furmark, FBI 302, 2/22/88, pp. 12-13.

Independent Counsel obtained no documentary evidence clarifying when Casey informed Regan of financial irregularities in the Iran arms sales. Regan was initially untruthful about at least one significant meeting with Casey on the evening of November 24, 1986, but Regan later corrected the record: He initially denied having discussed with Casey the discovery of the Iran/contra diversion on November 24 but later admitted he had.

On the evening of November 24, 1986, Regan met with Casey at CIA headquarters, at Casey's urgent insistence. Regan in his Select Committees Deposition of March 3, 1987, was asked whether he discussed the diversion with Casey at their meeting:

A: Only to the effect that there were -- no, I didn't. Let me back up. I did not discuss the precise nature of what Ed Meese, the Attorney General, had told the President.

Q: Why was that?

A: Well, at this point I didn't know who knew what, or who was guilty of what, and I thought the less I talk about it, the better off the Attorney General and his investigators would be.

Q: But didn't you want to know what your friend, William Casey, knew of this?

A: I knew that Ed Meese had been talking to him.⁶⁸

⁶⁸ Regan, Select Committees Deposition, 3/3/87, pp. 13-14.

But Casey, who died in May 1987, told the House Intelligence Committee on December 11, 1986, that Regan told him on November 24, 1986, that he had

. . . some evidence of a diversion. . . . Don Regan stopped in to see me on the way home. This had been arranged over the weekend when I was supposed to see if we were able to meet; and we were not able to meet, so that was the first I had any inkling of a diversion.⁶⁹

⁶⁹ Casey, HPSCI Testimony, 12/11/86, pp. 77-78.

Meese complicated the matter for Regan in a Select Committees deposition on July 8, 1987. Meese testified that when he saw Casey privately early on November 25, 1986, Casey was already aware of the diversion:

He heard about it, I believe, from Don Regan the previous evening, I believe. . . . Well, he had heard from Don Regan that there had been a diversion and that Poindexter was planning to resign and that Don Regan felt that Poindexter should resign immediately and probably -- I don't know whether North was discussed, too, or not.⁷⁰

70 Meese, Select Committees Deposition, 7/8/87, p. 126.

Regan in an interview with OIC on July 14, 1987, for the first time said he discussed with Casey on the evening of November 24, 1986, Meese's discovery of the diversion and the fact that it would have to be made public.⁷¹ On July 15, 1987, Regan in a deposition to the Select Committees said he told Casey about the diversion on the evening of November 24, 1986. He told the Committees that Casey's general reaction was that public disclosure would harm prospects for contra aid and would upset Middle Eastern friends and Israel.⁷²

71 Regan, FBI 302, 7/14/87, pp. 19-23.

72 Regan, Select Committees Deposition, 7/15/87, pp. 73-75.

In congressional testimony on July 30, 1987, Regan said his earlier misstatements stemmed from the fact that he was questioned in a "confusing period," following his resignation.⁷³

73 Ibid., 7/30/87, pp. 109-12.

Regan told the Grand Jury on February 3, 1988, that his November 24, 1986, meeting with Casey lasted about 25 minutes, that they discussed the diversion and the consequences of publicly disclosing it, and that Casey reminded Regan he had told him earlier about a Canadian threatening to expose the arms sales.⁷⁴

74 Regan, Grand Jury, 2/3/88, pp. 34-38.

Late November-December 1986: The Fallout Continues

In the aftermath of the Iran/contra disclosures, Regan's job became increasingly complicated. He attempted to distance the President from the NSC staff members who had been most directly involved in the operations.⁷⁵ He was confronted with Nancy Reagan's growing alarm over the political beating her husband was taking. He and other senior Presidential aides sought to expel Shultz from the Cabinet, because of his continued public dissent. But perhaps the most difficult task Regan had to endure was the demands by Members of Congress and others that he be removed as White House Chief of Staff, so that the President could start the last two years of his Administration with a clean slate.

75 Despite Regan's efforts, the President called North after his firing. Regan testified that when he learned of the call, he asked the President why he did it and told him "Well, I hope you did the right thing." (Regan, Select Committees Testimony, 7/15/87, p. 108.)

In an undated memo titled "Plan of Action," Regan on November 24, 1986, laid out a series of steps to be taken in response to the public disclosure of the Iran/contra diversion. Regan's overall strategy, in fact, was adopted by the White House. Among other things, he proposed that Poindexter resign and that North be reassigned, that Poindexter's deputy Alton Keel temporarily replace Poindexter, and that the President announce the appointment of a special review board to examine NSC actions. The memo states in part:

Tough as it seems[,] blame must be put at NSC's door -- rogue operation, going on without President's knowledge or sanction. When suspicions arose he took charge, ordered investigation, had meeting of top advisors to get at facts, and find out who knew what. Try to make the best of a sensational story. Anticipate charges of "out of control", "President doesn't know what's going on," "Who's in charge", "State Department is right in its suspicions of NSC", "secret dealing with nefarious characters", "Should break off any contacts with: a) Iranians, b) Contras" ⁷⁶

76 Memorandum from Regan, circa 11/24/86, ALU 010205.

Regan was partly successful in distancing the President from the actions of the NSC staff, but he could not escape criticism. On November 25, 1986, Vice President Bush privately told the President that "I really felt that Regan should go, Shultz should go, and that he ought to get this all behind him in the next couple of months." 77 The Vice President and others would succeed in removing Regan after only three more months of turmoil.

77 Bush Diary, 11/25/86, ALU 0140213.

Throughout December 1986, Regan's notes record meetings with members of Congress on Iran/contra. One set of notes -- written in past tense, unlike other Regan notes -- suggest continued concern about the pre-1986 arms shipments, but do not illuminate whether the President told Congress the truth about his knowledge of them:

12/2/86 Pres, VP, Dole, Michel, Simpson, Lott

Pres. outlined Iran situation

Read his TV statement on Independent Counsel, and Frank Carlucci.

Some conversation on how Congress should handle investigation.

g008Then DTR [Regan] asked Pres point blank -- what happened, Mr. Pres what did you know -- when did you know it? That's the question on these fellows mind. Tell them what you know.

g008He did -- for 10 minutes

g008Then they asked questions about arms shipments before Jan '86.

Also lack of support by GS [Shultz], Bud McF, & revelation of contras.

Pres reassured them on where he stood.

Tried to tell him not to beat up on press.

They emphasized the magnitude of the issue. Opponents and press are after Presidency.

Make sweeping changes.

Carlucci is not enough; they said.

Lott, Cheney [sic], Simpson, all said they needed answers.

Pres told them he knew nothing of fund as far as he knows only North & Poindexter

It is now a domestic political program, not a foreign policy matter.

May be a public apology is needed.78

78 Regan notes, 12/2/86, ALU 0139177-78 (emphasis added).

On December 1, 1986, the Senate Select Committee on Intelligence began a preliminary investigation into Iran/contra. On December 5, 1986, Regan noted two phone conversations with Casey reflecting behind-the-scenes contacts with the committee to try to defuse the problem. Casey called Regan to inform him of a conversation he had just had with SSCI staff director Robert Bernard McMahon:

Staff director -- Durenberger 'Wants to demolish this molehill'

so does most of committee

Bernie McMahon -- is staff director

Casey called him back -- told him he'd be hearing from someone representing me shortly

Quote above is from McMahon

* * *

Casey -- secure phone -- just got an ``offer of surrender" from Intell Comm counsel who says Some Sens feel nothing there -- ``dry hole" in hearings

How to get out of it?

g008Suggestion

Have Pres announce some morning soon that North violated law on contras funding

did not tell us. Also Pres say Poindexter had knowledge of this should have reported it to Pres. Both of them want to tell story to public. Put them on TV Let them tell story and then Pres pardon.

[at side]: DTR [Regan] to take this on

Paul Laxalt as intermediary . . .79

79 Ibid., 12/5/86, ALU 0139195-96.

According to Wallison's diary, Regan instructed Wallison on December 5, 1986, to invite McMahon to the White House for a talk. Wallison told McMahon that a presidential pardon was a political ``non-starter," and Wallison suggested that the President might be willing to endorse immunity for North and Poindexter to testify before Congress. McMahon told Wallison that the SSCI would resist granting immunity because of possible problems it would pose to an independent counsel.⁸⁰

⁸⁰ Wallison Diary, 12/5/86, ALU 0138266.

On Saturday, December 6, 1986, Casey called Wallison to ask about his conversation with McMahon, and Wallison discussed immunity with Casey. Wallison then called Regan and discussed immunity with him. Wallison called Associate Attorney General Steven Trott on December 7, 1986, to discuss the immunity matter, because Meese was not available.⁸¹

⁸¹ Ibid., 12/6/86, ALU 0138267.

As December wore on, Regan and other Presidential advisers tried to remedy the fact that both North and Poindexter were refusing to testify before Congress, citing their Fifth Amendment right against self-incrimination. Their silence fueled continuing speculation about the President's involvement in Iran/contra. The consensus in the White House was that Congress should be asked to grant limited or ``use" immunity from prosecution to North and Poindexter so that each of these men could effectively clear the President by stating that they did not inform him of the narrow issue of the Iran/contra diversion.

On December 16, 1986, President Reagan called on SSCI to grant North and Poindexter use immunity because, ``We must get on with the business at hand and put this issue behind us. It is my desire to have the full story about Iran come out now -- the alleged transfer of funds, the Swiss bank accounts, who was involved -- everything." ⁸² President Reagan stated that the granting of use

immunity would not prevent the Independent Counsel, who had not yet been appointed, from bringing anyone to justice.

82 Statement on the Iran Arms and Contra Aid Controversy, 12/16/86, Public Papers of the President, Ronald Reagan, 1986, p. 1631.

On December 16, 1986, Regan testified before SSCI. On December 17, 1986, Regan's notes from a meeting with the President reflect continuing concern over the committee's investigative findings:

4. Iran --

Durenberger says only Ollie North knew.

RR [Reagan] didn't

Immunity asked by RR.⁸³

83 Regan Note, 12/17/86, ALU 0139214.

On December 18, 1986, Regan testified before the House Intelligence Committee. At a meeting with the President that morning before testifying, Regan noted that they discussed "Dispute between testimony of DTR [Regan] and Bud [McFarlane]." ⁸⁴ On December 19, Regan noted again that he and the President in their morning meeting discussed the fact that "DTR -- Regan] McFarlane differ over Israeli arms shipments in Aug. 1985." ⁸⁵ The dispute, as outlined in news reports of McFarlane and Regan's congressional testimony, was over McFarlane's assertion that President Reagan had approved the August 1985 shipment in advance and Regan's contention that the President learned about it only after the fact.⁸⁶

⁸⁴ Ibid., 12/18/86, ALU 0139216.

⁸⁵ Ibid., 12/19/88, ALU 01389218.

⁸⁶ 1986 Facts on File, 12/26/86.

Regan notes apparently taken on December 18, 1986, describe the broad outlines of SSCI's anticipated findings, and how they cut in favor of the President:

Comm (Sen. Intel) wants to give us report in 10/14 days Not just a chronology but outline a scam by arms dealers & gvt [sic] govt's involved. Hood-winked our people.

W[ou]ld brief Pres or anyone else so he knows whats [illegible word]

Can take notes -- no exec summary. No interpretats No questioning of Pres -- No desire to add him to witness list. Keep meeting conf. [confidential] -- No press back door to Oval ⁸⁷

On December 19, 1986, Durenberger and committee staff director Bernard McMahon secretly briefed the President, Regan, Keel and Wallison about SSCI's findings. This was done without the knowledge of the committee.⁸⁸

Regan's Testimony on the 1985 Arms Shipments

Unlike Shultz and Weinberger, Regan did not deny knowledge of the August-September 1985 arms shipments to Iran. But his testimony shifted factually in several key respects, leaving the record unclear about the President's authorization of the early shipment and the promise to replenish Israeli stocks. Regan at first asserted that the President learned about the two-part shipment after the fact and did not approve replenishment; later, Regan testified that the President learned of the shipments

in mid-transaction -- after the first shipment in August but before the second in September -- and that he did approve replenishment.⁸⁹

XXXX

87 Regan Note, 12/18/86, ALU 0139217.

88 In its preliminary report issued January 29, 1987, SSCI noted:

According to testimony received by the Committee, on December 19 Senator Dave Durenberger, Chairman of the Intelligence Committee, and Bernard McMahon, the Committee's staff director, met with the President, Peter Wallison, Don Regan, and Alton Keel, at the request of the White House to discuss matters relating to the sale of arms to Iran and possible diversion of funds to the Contras. The Committee was not informed of this meeting until January 20, 1987.

According to testimony received by the Committee, on December 20 Senator Dave Durenberger and Bernard McMahon met with the Vice President, Craig Fuller and a second member of his staff to discuss matters relating to the sale of arms to Iran and possible diversion of funds to the Contras. The Committee was not informed of this meeting until January 20, 1987.

(SSCI Report on Preliminary Inquiry, 1/29/87, ALU 003546.)

89 Regan's first testimony on the subject was before the SSCI on December 16, 1986. He testified that in August 1985 President Reagan told McFarlane that he didn't want to authorize Israeli arms shipments. In September 1985, according to Regan, McFarlane told the President about the Israeli TOW missile shipment after the fact, and the President was "quite upset" about it. Regan said the President told McFarlane to let the Israelis know of "our displeasure . . . in no uncertain terms. Period." Asked whether the President approved of the replenishment of Israeli stocks, Regan said no. (Regan, SSCI Testimony, 12/16/86, pp. 12-13.)

In an FBI interview on December 18, 1986, Regan said McFarlane in August 1985 briefed the President on the fact that Israel wanted to sell TOWs to Iran. While the President agreed with the desirability of a dialogue with Iran, he did not approve the arms sale or replenishment, according to Regan. Regan said the only arms sales to Iran specifically authorized by the President took place in 1986. (Regan, FBI 302, 12/18/86, p. 8.)

Regan told the Tower Board on January 7, 1987, that McFarlane informed the President after Labor Day in September 1985 that the Israelis had sold arms to Iran. He said the President was upset, but "at that time did not indicate that he wanted to make a big deal out of it. It was done. It had been done. There was a possibility of a hostage coming out. He decided to leave it alone, just accept the fact that it was done, leave it there. I don't recall anything else happening, except I believe that [hostage] Benjamin Weir did come out at that time, if I'm not mistaken, or shortly thereafter." Regan said there was no specific request for replenishment at that time. (Regan, Tower Commission Interview, 1/7/87, p. 9.)

In a Select Committees deposition on March 3, 1987, Regan said he could not recall the President ever telling him that he had told McFarlane he would replenish Israeli weapons stocks. (Regan, Select Committees Deposition, 3/3/87, p. 55.) In a second deposition on July 30, 1987, Regan reaffirmed his earlier statements and added Poindexter's November 10, 1986, inaccurate recounting of events as supporting evidence:

Q: Does it sound reasonable or plausible to you knowing the Israelis they would go forward and deplete -- not deplete, but diminish this inventory of TOW missiles without some sort of a guarantee that they would, in fact, be replaced at a future time?

A: I can't answer that. I don't know what was in the minds of the Israelis. What I was looking for here in my notes, I have notes somewhere that the -- John Poindexter, at the November 10th meeting giving the background to everybody, in there described the fact that the Israelis had gone ahead without our permission. This is Poindexter now, who is the deputy at the time the incident happened, describing it to the rest of us and saying the same thing. So there was no presidential knowledge, no presidential concept. So the Israelis apparently took a chance that if they did something that pleased us, we would replace them.

(Regan, Select Committees Deposition, 7/30/87, pp. 117-18.)

Also on July 30, 1987, Regan said the President said when he learned in September 1985 of the shipment: ``As far as any replenishment is concerned, we will cross that bridge later. I am not going to do anything about that now." Regan said he knew at the time that the Israeli delivery of TOWs was tied to the release of Weir. (Ibid., pp. 30-31.)

Regan in the Grand Jury on February 3, 1988, said about the August-September 1985 shipment: ``I have always claimed and I will claim today that it was after the fact that we were notified. I don't recall being told in advance that that was happening. If I recall it, it was that we were notified by McFarlane along these lines, and I'm paraphrasing, `Guess what those damn Israelis have done. They've already shipped TOWs to Iran, and now they're asking us to replace them.' " Regan, however, directly contradicted his earlier testimony regarding President Reagan's stand on replenishment:

Q: And after you learned of that shipment, was the issue of replenishment raised at that time?

A: Yes -- toward the end of August and in September.

Q: What was your understanding, if any, of how replenishment would operate?

A: Well, at that point we were faced with a fait accompli. The deed was done. And Israel is a staunch ally of ours, and the President said, ``Well, I guess we'll have to replace them." So he authorized the replenishment.

(Regan, Grand Jury, 2/3/88, pp. 55-56.)

In his February 3, 1988, Grand Jury appearance, Regan indicated that the President learned of the August-September 1985 shipments in mid-transaction. Asked whether he and the President were informed in advance of the mid-September 1985 shipment, he said: ``I believe we were, because that was tied in with the original shipment. That -- okay, when we replenish we'll have to replenish both the 500 and 100." (Ibid., p. 57.)

Regan's shifting testimony paralleled generalized legal worries among Administration officials about the 1985 Israeli shipments. Before Regan made his early statements about the August-September 1985 arms shipments, White House Counsel Wallison had raised with him serious concerns about their legality under the Arms Export Control Act (AECA).

Regan's testimony on the November 1985 HAWK missile shipment to Iran has been consistent, acknowledging that McFarlane briefed the President in Geneva on the HAWKs shipment as it was about to take place.⁹⁰

⁹⁰ Since his earliest testimony before the SSCI on December 16, 1986, Regan repeatedly stated that McFarlane briefed the President during the November 1985 Geneva summit on a shipment of arms from Israel to Iran via a European country.

Independent Counsel questioned Regan also about the possibility that he spoke to North about the HAWK shipment, because of a series of documented phone calls between North, Poindexter and

Regan in the same time frame. Regan has testified repeatedly that the only time he ever spoke to North on the phone was on November 24, 1985, but he consistently maintained that this conversation concerned the hijacking of an Egyptian airliner. Asked by the FBI on March 6, 1991, to explain a list of calls between November 25-December 1, 1985, including some from Poindexter, Regan stated that he doesn't remember receiving any calls about the HAWK shipment. (Regan, FBI 302, 3/6/91, p. 6.) On November 23, 1985, Regan received a call from an unidentified "secure voice" at 11:44 p.m., 10 minutes before Poindexter called the President. Poindexter told the Grand jury he could not remember the purpose of this late-night call. (Poindexter, Grand Jury, 3/6/91, pp. 8-9.)

In an apparent contradiction with other Administration officials who early on maintained that President Reagan didn't learn about the true cargo of the November 1985 HAWK shipment until 1986, Regan told SSCI that a meeting in the White House residence of the principals on December 7, 1985, involved "much discussion about the shipment of those HAWK missiles." (Regan, SSCI Testimony, 12/16/86, p. 20.) Regan in his Select Committees deposition of July 15, 1987, recalled there was talk at the meeting of a need for a Finding if the initiative proceeded, but he didn't recall anyone saying one was already drafted. (Regan, Select Committees Deposition, 7/15/87, pp. 15-16.)

Regan in the Grand Jury on February 3, 1988, was shown a memo by Deputy CIA Director John McMahon, written December 7, 1985, stating that a Finding had been signed to cover the November 1985 HAWK shipment. With refreshed memory, Regan testified that he "probably did" discuss the Finding with Casey: "Because I recall that, after this event had taken place -- that is, the HAWK shipments -- that Casey did discuss with me the fact that there was no finding, but such a finding would be needed for the record; and he would get together with McFarlane and see that one was prepared." (Regan, Grand Jury, 2/3/88, pp. 70-71.)

Correcting the President

Starting with his testimony before SSCI in December 1986 up until his Grand Jury appearance in February 1988, Regan maintained that President Reagan had not known about the August-September 1985 TOW shipments until after the fact and had not approved the replenishment of weapons to Israel. This put him in direct conflict with McFarlane, who had testified that President Reagan explicitly approved, in advance, the shipments and replenishment.

These contradictory claims did not cause a real problem for the White House until the presidentially appointed Tower Board in late 1986 and early 1987 interviewed McFarlane, Regan and President Reagan; the President wavered between the two versions of events, ultimately informing the Board he could not recall what had actually happened.

McFarlane gave his first interview to the Tower Board on December 11, 1986, with subsequent interviews on February 19 and 21, 1987. Regan spoke to the Board on January 7, 1986. By the time President Reagan testified about the August-September 1985 arms shipments, there was a stark factual conflict regarding his actions that only he could resolve.

The Tower Board reported that President Reagan in his first interview on January 26, 1987, said he had approved the arms shipments in August 1985. In his second interview on February 11, 1987, "the president said that he and Regan had gone over the matter repeatedly and that Regan had a firm recollection that the President had not authorized the August shipment in advance." 91 The Board noted that President Reagan relied heavily in his second interview on a memorandum prepared by Wallison, which stated that the President had been "surprised" by the August-September 1985 shipments. Finally, on February 20, 1987, President Reagan in a letter to the Board stated: "I let myself be influenced by others' recollections, not my own." President Reagan said he had no personal notes or records to refresh his memory and he "cannot recall anything whatsoever" about whether he approved the shipment or replenishment in August 1985. "My answer therefore and the simple truth is, 'I don't remember -- period.'" 92

91 Tower Commission Report, 2/26/87, p. B-19.

92 Ibid., p. B-19-20.

In his book *Consequences*, John Tower, the Chairman of the Tower Board, described the Board's shock and suspicion over President Reagan's changed testimony. Tower said when he asked the President clarifying questions, the President at one point "picked up a sheet of paper and . . . said to the board, 'This is what I am supposed to say,' and proceeded to read us an answer prepared by Peter Wallison, the White House counsel." Tower wrote:

. . . we were left with a major contradiction to deal with, which bore all the earmarks of a deliberate effort to conceal White House Chief of Staff Donald Regan's involvement in the Iran-contra affair. By convincing the president that he, the president, had not authorized the arms shipment, Regan was buttressing his own contention that he had been completely unaware of the transaction despite a reputation for tightly controlling the chain of command within the White House staff. It appeared that Regan was putting his own interests ahead of those of the president, who had promised the American people a "full and complete airing of all the facts." Given the Wallison memo, this seemed to us to be the only logical explanation for the altered testimony.⁹³

93 Tower, *Consequences* (Little, Brown & Co., 1991), pp. 283-284.

In his diary, Wallison described preparing President Reagan for his initial testimony to the Tower Board, in a meeting on January 22, 1987, that included Vice President Bush, Regan and Special Counsel David Abshire. Wallison said the President used a chronology of events that Wallison had prepared and had apparently gone back to his diary to flesh it out. While the President's diary was "relatively complete," according to Wallison, it contained "no confirmation that he had approved arms sales in Aug. or Sept. of 1985." Wallison said the President had virtually no independent recollection of any of the 1985 arms shipments except for diary notes. Another preparatory meeting was held January 23, 1987.⁹⁴

94 Wallison Diary, 1/22/87, ALU 0138553.

Wallison was present during President Reagan's January 26, 1987, Tower Board interview. He noted in his diary that the President said he thought he had approved the August 1985 shipment in advance. "This really surprised me," Wallison wrote. "In our earlier discussions the Pres. had no recollection of having approved this sale, and now he seemed to have a pretty clear recollection that he had done so. I could not figure out how he had come to that view, which put him at odds with Regan, the rest of the cabinet, and the written record." ⁹⁵

95 Ibid., 1/26/87, ALU 0138304-05.

After the Tower interview, President Reagan met with Wallison in the Oval Office and showed him that he had found a North chronology of November 19, 1986, which Wallison told him was false. According to Wallison, the chronology helped explain President Reagan's recollection about the November 1985 HAWK shipment, but the chronology stated that he had not approved the Israeli shipment in advance "so his statements that he had approved had not come from that source." ⁹⁶

96 Ibid., ALU 0138305.

On January 28, 1987, Wallison gave President Reagan a memorandum on what he had earlier told the Tower Board. Reagan read the memorandum and said it seemed complete. Wallison told the President he wanted to discuss with him some of his answers. On January 30, 1987, Wallison, Regan and Abshire met with the President and asked him whether he remembered approving the August 1985 shipment, or just the fact of replenishment some time in 1986. The President "seemed at first to have no recollection," according to Wallison.

Then Regan said that he (Regan) remembered McF. [McFarlane] telling the Pres. that the Israelis had sent the weapons without our approval, and that the Pres. was surprised and displeased. Regan said the Pres. said something like ``What's done is done," but was not happy. As he listened to this, the Pres. seemed to have a recollection of this event. He said to me ``You know, he's right" referring to Regan. I think at that point he genuinely had a recollection of this sequence of events, and that he had not approved the sale in advance.⁹⁷

⁹⁷ Ibid., 1/30/87, ALU 0138310.

In early February 1987, Wallison managed to set up a second interview for the President with the Tower Board. On February 9, 1987, Wallison, Regan and Abshire met with the President to prepare him for his second interview.

Wallison advised the President to tell the Board only what he seemed to recall, according to Wallison, about the 1985 shipments: That he was ``surprised" to learn after the fact of the summer 1985 transactions, and that he had no memory of the November 1985 HAWK shipments.<sup>98</sup> A second preparatory session was held the morning of February 11, 1987. Wallison in his diary stated that he gave the President a memo ``setting out what I understood to be his revised recollection concerning whether he had initially authorized the sale of TOWs by Israel to Iran." Wallison said the President ``seemed to see the issue as a dispute between Regan and McFarlane, and did not want to take sides." ⁹⁹

⁹⁸ Ibid., 2/9/87, ALU 0138319.

⁹⁹ Ibid., 2/11/87, ALU 0138321-22.

In his second interview with the Tower Board, President Reagan read from the Wallison memorandum. ``Unfortunately, it was written in the second person, and so he flubbed a summary of it," Wallison noted. ``In all, it was a weak performance, and left the unfortunate impression that he might have been influenced to this view against his best recollection." ¹⁰⁰

¹⁰⁰ Ibid., ALU 01388322-323.

Wallison said after the interview he became ``quite concerned" that the Board might believe ``we had tried to sway his recollection, perhaps in order to buttress Regan's view of events." But, Wallison said,

It was an attempt to set the historical record straight. I had twice heard him say that he had been surprised to learn of the Israeli shipment; his notes do not disclose and [sic] approval; Shultz, Weinberger and Regan do not know of any approval; the record shows that North was not able to get replenishment of the Israelis before the Jan 17, 1986 finding was signed. All this leads to the conclusion that the Pres. did not in fact approve. Only McF. says he did, but McF.'s credibility is subject to question and he could have been protecting the Pres. by adopting the idea of an oral finding.¹⁰¹

¹⁰¹ Ibid., ALU 0138323.

On February 13, 1987, The Washington Post reported that the Tower Board was now looking into a ``cover-up" by the White House to keep the Iran arms sales from becoming public.¹⁰² On February 14, 1987, Wallison met with the Tower Board staff about their concerns over the President's changing statements about the August 1985 shipment. The same day Wallison started to get press inquiries about a change in Reagan's testimony. The story became public in the press on February 19, 1987, and Regan was directly blamed for the President's changed testimony.¹⁰³

102 ``Tower Panel Probing Whether Iran Cover-Up Was Attempted," The Washington Post, 2/13/87, p. A1.

103 ``President Changed Statement on 1985 Iran Arms Approval," The Washington Post, 2/19/87, p. A1; ``Conflicts in Reagan Iran Remarks Cited," The Los Angeles Times, 2/19/87, p. 1.

In the meantime, Wallison had gathered three computer messages from McFarlane to Poindexter that confused the issue further: one dated November 7, 1986, stating that the President had not authorized the August 1985 arms shipment in advance; the second on November 18, 1986, also stating that the President did not approve a weapons transfer; and one written on November 21, 1986, in which McFarlane described a meeting with Meese and noting that Meese would be ``relieved" if the President had approved the 1985 Israeli shipments in advance.¹⁰⁴ Wallison showed the computer notes to Regan on February 19, 1987, suggesting that McFarlane changed his version of events and that Regan's recollection was the true one.¹⁰⁵

104 PROFs Notes from McFarlane to Poindexter: 11/7/86, AKW 021626-27; 11/18/86, AKW 021672-74; 11/21/86, AKW 021677.

105 Wallison Diary, 2/19/87, ALU 0138337-39.

Later on, Abshire and Wallison met with President Reagan and showed him the McFarlane notes. The President read the November 18, 1986, computer message and ``seemed angry about it," according to Wallison. The President said his recollection was closer to McFarlane's testimony, which he had recently re-read -- that he had approved the shipment in advance. President Reagan said he had no recollection of being surprised at learning of the shipment. When Wallison and Abshire pressed him, ``he finally said that he really could recall nothing of any of this -- that the whole period was a blank." Abshire subsequently called Tower and told him to talk to President Reagan on the phone to hear his statement; Tower asked for a letter instead.¹⁰⁶

106 Ibid., ALU 0138339.

On February 20, 1987, President Reagan sent his letter to the Tower Board. Regan, upon learning that the President said he let himself be ``influenced by others' recollections," became angry, according to Wallison, and blamed the wording of the letter on Nancy Reagan.¹⁰⁷

107 Ibid., ALU 0138571-72.

Regan's Forced Resignation

The Tower Board controversy led to Donald Regan's ultimate dismissal as White House chief of staff, after pressure on the President to remove him had been building for months. On February 20, 1987, Vice President Bush confronted Regan about resigning, citing continuing trouble among staff and in the press. Regan, according to the Vice President, agreed to leave following the issuance of the Tower Board report.

Vice President Bush wrote: ``I went in to see the President after the talk with Don Regan. The President was very, very pleased. He thanked me about three times. I gave him a full report. He was concerned that Don would walk in and see us talking, so I left after about 15 minutes." According to Vice President Bush, he and the President agreed that their discussion about Regan should be considered a ``non-conversation." ¹⁰⁸

108 Bush diary, 2/20/87, ARZ 002847-48.

Vice President Bush saw Regan again February 26, 1987, and Regan informed Bush he would leave the following week. Again, the Vice President informed President Reagan of the conversation.¹⁰⁹

109 Ibid., 2/26/87, ARZ 002849. Don Regan described in his book *For The Record* a more elliptical exchange with the Vice President. According to Regan, the Vice President on February 23, 1987, called him into his office and said, "Don, why don't you stick your head into the Oval Office and talk to the President about your situation?" Regan said the Vice President explained that the President had asked him what Regan's plans were. According to Regan, the President suggested that he leave that day, before the Tower Board report came out. Regan convinced the President to allow him to stay until the following week, after it was issued. (Regan, *For The Record*, Harcourt Brace Jovanovich 1988, pp. 96-99.)

On February 27, 1987, Regan resigned. Wallison followed him shortly thereafter.

Decision Not To Prosecute

There were three areas of Regan's conduct that invited investigation. Independent Counsel attempted to determine whether there was a conspiracy to cover up President Reagan's possible violation of the Arms Export Control Act by the 1985 arms transactions; second, whether Regan, on his own or with Wallison, deprived the Tower Board of President Reagan's honest recollection regarding his authorization of the 1985 arms transactions; and third, whether Regan willfully withheld his notes from the congressional committees and the Office of Independent Counsel.

As more extensively discussed in the section dealing with Meese, there is little doubt that Meese's November 21-24, 1986 "fact-finding" effort was, in fact, a damage-control effort. Wallison was concerned that the President had violated the Arms Export Control Act, and raised these concerns with Regan. Regan admitted to Independent Counsel his own concerns over possible impeachment of the President.¹¹⁰

¹¹⁰ The Justice Department's later rationalizations that the Arms Export Control Act did not apply were at best tenuous. Whether or not the arms transactions were illegal, they presented a clear confrontation with the statute and, accordingly, they invited consideration of harsh congressional reaction and possible impeachment, as Regan admitted.

Although Regan was in frequent contact with Meese and Casey during this critical period, Independent Counsel obtained no usable evidence that he was attempting to orchestrate a story, or that he was helping Meese do it. His notes, when ultimately produced, substantially helped develop Independent Counsel's knowledge of the facts. When Regan testified before the Grand Jury, he gave every appearance of being forthright. His testimony would have been used against Weinberger and was available against Meese. Under the circumstances, it was decided that, although the delay in the production of his notes had damaged OIC's investigation, its investigative purposes would be better served by developing him as a witness rather than a target.

Regarding the President's vacillating statements to the Tower Board, there is no direct evidence of obstruction by Regan or Wallison. Based on Wallison's diary, there seems to have been genuine confusion over the issue, and the President appeared genuinely confused about his recollection.

Regarding Regan's notes, Independent Counsel believed that primary responsibility for production rested with the White House. Regan produced copies of his notes when they were subpoenaed.