



Chapter 31

Edwin Meese III: November 1986

Attorney General Edwin Meese III became directly involved in the Reagan Administration's secret plan to sell weapons to Iran in January 1986, when he was asked for a legal opinion to support the plan.¹ When the secret arms sales became exposed in November 1986, raising questions of legality and prompting congressional and public scrutiny, Meese became the point man for the Reagan Administration's effort, in Meese's words, "to limit the damage."²

¹ Meese, Select Committees Testimony, 7/28/87, pp. 2-9; 21-36. Meese also supported the plan. (Ibid., pp. 5-7.)

² Meese, North Trial Testimony, 3/28/89, pp. 5747-48.

Meese began with an attempt to justify legally President Reagan's failure to notify Congress of the arms sales for more than a year. His efforts led to a November 21-24 fact-finding investigation focused on the President's involvement in the November 1985 HAWK missile shipment to Iran.

The Select Iran/contra Committees criticized Meese for departing from "standard investigative techniques" in his fact-finding mission because he failed to protect National Security Council documents, many of which were altered or destroyed as he conducted one-on-one interviews with senior Administration officials without taking notes.³ The Select Committees also faulted Meese for "incorrectly" stating in his November 25, 1986, press conference, at which he disclosed the Iran/contra diversion, that President Reagan did not learn of the 1985 shipment until February 1986. The Select Committees viewed this as an isolated error. It was not.

³ Select Committees Report, pp. 10-11, pp. 20-21, pp. 306-07, p. 311, pp. 317-18.

Meese was conducting the November 21-24 investigation as "counselor" and "friend" to the President, not as the nation's chief law enforcement officer. Independent Counsel concluded that he was not so much searching for the truth about the November 1985 HAWK shipment, as he was building a case of deniability for his client-in-fact, President Reagan. By this time, Meese knew that the 1985 HAWK transaction, in which the National Security Council staff and the Central Intelligence Agency were directly involved without a presidential covert-action Finding authorizing their involvement, raised serious legal questions. The President was potentially exposed to charges of illegal conduct if he was knowledgeable of the shipment and had not reported it to Congress, under the requirements of the Arms Export Control Act (AECA) and in the absence of a Finding. But Meese apparently never questioned the President himself about whether he approved or knew about the November 1985 HAWK shipment. When Meese got answers in his inquiry that did not support his defense of the President, he apparently ignored them, as he did with Secretary of State George P. Shultz's revelation on November 22 that the President had told him that he had known of the HAWK shipment in advance.

In the course of the weekend inquiry, Meese and his aides discovered in the National Security Council Office of Lt. Col. Oliver L. North a politically explosive document: An undated memorandum, apparently drafted in early April 1986, that outlined a planned diversion of \$12 million in proceeds from the Iran arms sales to the Nicaraguan contras. This discovery caused the Meese inquiry to veer off onto two tracks -- while facts about the 1985 HAWK shipment were still being gathered, there was a second effort to determine who knew about and who approved the diversion. After receiving confirmation from North that an Iran/contra diversion had occurred, Meese quietly imparted the news to the President, White House Chief of Staff Donald T. Regan and

Vice President Bush on November 24, sounding them out privately on their personal knowledge of it. He did not inform a senior advisers' meeting that afternoon. He informed the Cabinet on the next day.

Meese attempted to resolve the separate but continuing problem of the HAWK shipment -- particularly the President's contemporaneous knowledge -- at the senior advisers' meeting on Monday, November 24, attended by President Reagan, Vice President Bush, Regan, National Security Adviser John M. Poindexter, Shultz, Secretary of Defense Caspar W. Weinberger, and CIA Director William J. Casey. In response to a question about the November 1985 HAWK shipment, Poindexter falsely claimed that before December 1985, McFarlane handled the Iran arms sales "all alone" with "no documentation." ⁴ Meese then added that the November 1985 HAWK shipment "[m]ay be a violation of law if arms shipped w/o a finding. But President did not know." ⁵ At least Meese, President Reagan, Regan, Shultz, Weinberger, Bush, and Poindexter knew that Meese's version was false, but no one spoke up to correct him. After the meeting, Shultz told his aide M. Charles Hill, "They may lay all this off on Bud [McFarlane] . . . They rearranging the record." ⁶

⁴ Weinberger Note, 11/24/86, ALZ 0040669LL.

⁵ Regan Note, 11/24/86, ALU 0139379.

⁶ Hill Note, 11/24/86, ANS 00001898.

Because Congress had already announced its intention to hold hearings on the Iran arms sales, Meese's apparent attempt to signal other Cabinet members that the party line should be that the President did not have contemporaneous knowledge of the November 1985 HAWK shipment required evaluation as an effort to obstruct a congressional inquiry.

The OIC did not learn of Meese's statements at the November 24, 1986, meeting until late 1991 and 1992, when it finally obtained notes of the meeting taken by Weinberger and Regan. Six years after the pivotal events had occurred, the trail was cold. With the principals professing no memory of often critical events, the OIC did not uncover sufficient evidence of an obstruction to justify a prosecution.

November 1-19, 1986

On November 3, 1986, the secret U.S. arms sales to Iran were first exposed in the press, setting off inquiries that resulted in a series of false denials by the White House. On November 5, 1986, Poindexter asked Meese for some "legal advice" on the arms sales to Iran, in anticipation of questions from Congress.⁷ Two days later, Meese asked Assistant Attorney General Charles Cooper, the head of the Department of Justice Office of Legal Counsel, to research the matter, with assistance from "one other trusted person." ⁸ Meese told Cooper that NSC counsel Paul Thompson would be his White House contact.⁹ Cooper understood that he was to research the relevant statutes and to provide an analysis of whether the arms shipments were legal.¹⁰

⁷ Meese, Grand Jury, 12/16/87, pp. 62-66.

⁸ Meese, Select Committees Testimony, 7/28/87, pp. 42-43; Cooper, Grand Jury, 7/15/92, pp. 8-11.

⁹ Ibid., pp. 22-23.

¹⁰ Ibid., pp. 13, 15-16.

On the morning of November 10, President Reagan met in the Oval Office with his senior national security advisers, including Meese, Poindexter, Vice President Bush, Shultz, Weinberger, Casey, Regan, and Poindexter's deputy, Alton Keel, to discuss issuing a public statement on the Iran arms sales. Poindexter gave a presentation on the arms sales to Iran in which he described U.S.

involvement as beginning with the January 17, 1986, presidential Finding. He omitted any mention of U.S. approval of or involvement in the 1985 shipments of arms from Israeli stocks. Instead, he asserted falsely that U.S. officials first learned of the 1985 Israeli shipments to Iran when they confronted Israeli officials after discovering a warehouse of U.S.-made arms in Portugal in 1986. According to Poindexter, Israel had responded that they were trying to get Iranian Jews out of Iran.¹¹

11 Hill Note, 11/10/86, ANS 0001762; Regan Note, 11/10/86, ALU 0139114; Keel Note, 11/10/86, AKW 047247.

Virtually everyone at the November 10 meeting knew that Poindexter's story was false, but no one spoke up to correct it. President Reagan, Shultz, Weinberger, Regan, Vice President Bush, and Casey all knew that at least since June 1985 Israel had proposed selling U.S. arms to Iran in an attempt to free U.S. hostages, not Iranian Jews. They also knew that the Administration had learned about the Israeli efforts directly, not from stumbling on a warehouse of weapons in Portugal. President Reagan, Regan, Shultz, Vice President Bush, and Weinberger all had advance notice of the November 1985 HAWK shipment and its purpose -- to free the hostages. Casey definitely knew within a few days after the shipment and may have known in advance as well. There is no direct evidence that Meese knew about the 1985 shipments prior to this meeting.¹²

12 Meese denied that a September 1985 TOW missile shipment was discussed at the November 10 meeting and maintained that he did not learn of the 1985 shipments until approximately November 18, when Cooper told him about the NSC chronology. Meese's own notes of the meeting, however, belie his claim: ``508 [TOWs] shipped by Israel -- [U.S.] told after the fact . . . Results: . . . 3 hostages ret'd: Weir, Jako [sic, Jenco] Jacobsen." The reference to Weir's release being one of the ``results" of the shipments is significant because he was released in September 1985.

After Poindexter's presentation, the group reviewed a draft press statement prepared by Casey. Poindexter opposed issuing a public statement because it would terminate ongoing negotiations with Iran. Regan urged they issue a statement, because ``we are being hung out to dry" and ``[o]ur credibility is at stake." 13 President Reagan favored a statement emphasizing that the United States had not dealt with terrorists but was pursuing a long-range policy toward Iran.¹⁴ Meese wanted the statement to include the assertion that no U.S. laws or policy had been violated, even though he had not yet received any assurance from Cooper, who was still researching the matter.¹⁵ Meese testified that as late as November 20, 1985, he was not ``fully informed" on the legal issues and was relying on Cooper.¹⁶

13 Weinberger Memo, 11/10/86, ALZ 0041727.

14 Regan Note, 11/10/86, ALU 0139114; Keel Note, 11/10/86, AKW 047247.

15 Regan Note, 11/10/86, ALU 0139114.

16 Meese, Grand Jury, 12/16/87, p. 112. Meese's prior analysis in January 1986 that the plan was legal was based on his understanding that shipments would be authorized by a Finding signed by the President. Having just been told that in September 1985, weapons were shipped before any Finding, Meese, at that point, had no basis for asserting that no laws had been violated. Even if Israel had shipped the weapons without U.S. approval there would have been a violation of the Arms Export Control Act because the President had failed to report such a third-country the shipment to Congress ``immediately" after learning of it.

Near the end of the meeting, Shultz demanded to know whether there would be further arms sales to Iran. President Reagan responded by insisting that his advisers support the policy and to not say anything else publicly. Shultz replied that he supported the President, but not the policy.¹⁷

17 Regan Note, 11/10/86, ALU 0139126; Keel Note, 11/10/86, AKW 047255; Hill Note, 11/10/86, ANS 0001764.

The press statement released later that day did not confirm or deny any arms sales to Iran. It simply announced that the President had met with his senior national security advisers to discuss the hostages held in Lebanon, and that no laws had been broken:

As has been the case in similar meetings with the President and his senior advisers on this matter, there was unanimous support for the President. While specific decisions discussed at the meeting cannot be divulged, the President did ask that it be reemphasized that no U.S. laws have been or will be violated and that our policy of not making concessions to terrorists remains intact.¹⁸

¹⁸ White House Press Statement, 11/10/86.

When White House Counsel Peter J. Wallison received a copy of the statement he "was unhappy to note that it said that all laws had been complied with. I was told that this is what the AG [attorney general] wanted said." ¹⁹ Wallison had previously expressed to Regan his concern that the arms sales may have violated the Arm Export Control Act (AECA). Wallison's efforts to look into the matter had been thwarted, however, by Poindexter's unwillingness to provide him with the facts.

¹⁹ Wallison Diary, 11/14/86, ALU 0138220, p. 251.

On November 12, 1986, a story in The New York Times questioned the legality of the arms sales to Iran. After learning of the report, Nancy Reagan told Don Regan that she was "very upset" by the press reports and that the policy of refusing comment on the arms sales was "[r]isking presidency." ²⁰ Regan testified that as the Iran arms sales continued to dominate the news and the President's approval ratings plummeted, he and other officials were concerned that the scandal would become another Watergate and lead to calls for President Reagan's impeachment.²¹

²⁰ Regan Note, 11/12/86, ALU 0138701.

²¹ Regan, Grand Jury, 5/8/92, pp. 98-100.

Later on November 12, President Reagan and his top advisers, including Vice President Bush, Shultz, Weinberger, Meese, and Poindexter met with Senate leaders Robert Byrd and Robert Dole, House Speaker Jim Wright and Rep. Richard Cheney to brief them on the Iran arms sales.²² According to Regan's notes of the meeting, Poindexter once again provided the false cover story that "Israel's participation in arms selling led us to discover arms in Portugal which Israel [was] selling to get Jews out of Iran." ²³ When Sen. Byrd demanded to know when the Administration's contacts with Iran began, Poindexter responded falsely that, although the Administration had begun to explore contacts with Iran in 1985, there had been "no transfer of material" before the Finding was signed in January 1986.²⁴

²² Regan Note, 11/12/86, ALU 0139132.

²³ Ibid., pp. 4-5, ALU 0139135-36.

²⁴ Ibid., p. 10, ALU 0139141.

On November 13, 1986, Cooper gave Meese the memorandum justifying the 1986 arms shipments under the National Security Act. That evening, President Reagan delivered a nationally televised address, purporting to set out the facts of U.S. involvement in the arms sales to Iran. He publicly admitted for the first time that he had authorized "the transfer of small amounts of defensive weapons and spare parts for defensive systems to Iran." He insisted, however, that "[t]hese modest deliveries, taken together, could easily fit into a single cargo plane." He denied reports of dissension within the Administration and asserted that "all appropriate Cabinet officers were fully consulted."

The President also reiterated his earlier statement that no federal laws had been broken and assured the public that "the relevant committees of Congress are being, and will be, fully informed." He did not mention the 1985 arms sales to Iran.²⁵

25 Transcript of President's Address to the Nation on the Iran Arms and Contra Aid Controversy, 11/13/86, pp. 1546-48.

At a meeting that morning to draft the President's address, Poindexter's deputy Alton Keel proposed inserting a sentence that all laws had been complied with. Wallison, who had been researching the question for Regan but was unable to get the facts from Poindexter, stated that the legality of the shipments had not yet been confirmed. According to Wallison, "Keel exploded, telling me that this is what the President wanted, this is what the AG [attorney general] wants, and this is what the National Security Adviser wants; that the Pres. [President] had already said as much earlier in the week; that this statute was the AG's to interpret, and I should not go around expressing disagreement with the AG's conclusions." The sentence that all laws had been complied with was inserted in the President's address over Wallison's objection.²⁶

26 Wallison Diary, 11/14/86, ALU 0138222-23, pp. 253-54.

Wallison remained concerned about the legality of the shipments and tried repeatedly to discuss the subject with Meese. When Wallison finally spoke with Meese on the afternoon of November 13, Meese said he would have Cooper contact him. That evening, Cooper explained his theory on the legality of the arms shipments as set forth in the memorandum he had delivered to Meese, based on the January 1986 Finding authorizing the shipments as a covert action under the National Security Act. Cooper argued that the President had inherent constitutional powers, recognized in the National Security Act, to conduct the arms sales without notifying Congress. Wallison responded that Cooper's approach would "provoke a constitutional confrontation that we have tried to avoid in the context of the War Powers Resolution." ²⁷

27 Ibid., p. 254, ALU 0138223.

Wallison also asked Cooper how long he had been working on this project. Cooper responded, "about a day." Wallison noted in his diary that "[i]t thus appeared that the Pres. [President] was going to state in his speech that no laws had been violated but the Justice Dept., which supposedly had given him that advice had not even begun to research the question in any depth." ²⁸ The problem was even greater than Wallison suspected: The 1985 shipments, particularly the November HAWK shipment in which the NSC and CIA acted without a Finding, had yet to be acknowledged by Administration officials.

28 Ibid., p. 255, ALU 0138224.

Dissidence about the arms sales among the President's top advisers broke into the open on Sunday, November 16, when Shultz appeared on CBS-TV's "Face the Nation." Shultz stated that he opposed any further arms sales to Iran but, when pressed, conceded that he could not speak for the Administration.²⁹

29 Weinberger's diary notes for the day reflect that he spoke to Poindexter later that day "re Shultz 'distancing himself' " from the Iran arms sales. (Weinberger Note, 11/15/86, ALZ 0040539.)

On November 18, Wallison called a meeting of the general counsel of the agencies involved in the Iran arms sales. Present at the meeting were Wallison, Paul Thompson from the NSC, Cooper, Abraham D. Sofaer from State, H. Lawrence Garrett III from the Defense Department, David Doherty from the CIA, and an attorney from the staff of the Joint Chiefs of Staff.³⁰ The purpose of the meeting, according to Wallison, "was to see if . . . [they] could agree to a common set of

theories to support the position that the Administration would take in testimony and briefings on the Hill." 31

30 Wallison Note, 11/18/86, p. 258, ALU 0138204.

31 Ibid.

Cooper explained his theory that the 1986 shipments were legal pursuant to the President's inherent constitutional authority as recognized by the National Security Act, and that the reporting requirements of the AECA did not apply. Cooper noted that the failure to notify Congress of the 1986 arms sales, which were authorized by the January 17 Finding, was defensible because there were precedents for delayed congressional notification of covert operations.³² Wallison questioned whether Cooper's "exception" to the AECA could "swallow up the statute," but everyone else supported Cooper's view.³³

32 Ibid., p. 259; Sofaer Note, 11/18/86, ALV 000309.

33 Wallison Note, 11/18/86, ALV 0138228, p. 259.

Paul Thompson, general counsel to the NSC staff, briefed the group on the September 1985 TOW shipment, explaining that Israel had shipped the TOWs to Iran and that the United States replenished Israel's stocks after the January 17, 1986, Finding was signed.³⁴ According to Sofaer, Cooper -- apparently relying on a draft chronology of the arms sales prepared by the NSC staff that he had been given the day before ³⁵ -- said that the United States had no advance knowledge of the TOW shipment but learned about it after the fact and later replenished Israel's stocks.³⁶ Wallison understood that U.S. officials had known about the shipment, but had not approved it.³⁷ In any event, no one had a viable legal theory for justifying the failure to report the September 1985 shipment to Congress, as required by the AECA.³⁸ Wallison questioned whether Meese had known of the pre-Finding shipments before telling the President everything was legal, and Cooper agreed to check with Meese.³⁹ Curiously, the November 1985 HAWK shipment was not discussed at the meeting, even though it was listed on the draft NSC chronology Cooper had obtained the previous day.⁴⁰

34 Cooper Note, 11/18/86, ALV 077953; Cooper, FBI 302, 1/6/88, pp. 2, 5.

35 Cooper, Grand Jury, 7/15/92, pp. 23-24.

36 Sofaer, OIC Interview, 9/29/92, pp. 8-9, 15; Sofaer Note, 11/18/86, ALV 000309.

37 Wallison Note, 11/18/86, ALU 0138228, p. 269.

38 Ibid. Even Cooper was concerned, at that time, that the pre-Finding shipments might violate the AECA. (Cooper, Grand Jury, 7/15/92, p. 44.) Ultimately, however, Cooper determined that the AECA did not apply to even the pre-Finding shipments.

39 Wallison Note, 11/18/86, ALU 0138228, p. 259. Cooper could not recall agreeing to check with Meese. (Cooper, Grand Jury, 7/15/92, p. 50.)

40 Ibid., pp. 24-25. The Wallison and Sofaer notes of the meeting do not reflect any discussion of the November 1985 shipment.

Also at the meeting, Sofaer, Garrett, Wallison, and Cooper complained to Thompson that the NSC staff was "stiffing everybody" by withholding factual information.⁴¹ Sofaer and Wallison stated that without the facts they could not advise their clients and Meese would have to be the sole spokesperson on the legal issues.⁴² Thompson nevertheless refused to provide additional facts.⁴³

41 Cooper, Grand Jury, 7/15/92, p. 32; Wallison Note, 11/18/86, pp. 258-59; Sofaer Note, 11/18/86, ALV 000309-10.

42 Wallison Note, 11/18/86, ALU 0138227-28, pp. 258-59; Sofaer Note, 11/18/86, ALV 000309-10.

43 Ibid., 259.

Sofaer met that afternoon with Shultz's executive assistant, M. Charles Hill, to debrief him about the general counsel meeting. Sofaer told Hill that Thompson and the CIA were refusing to give the other lawyers the facts. Sofaer explained the legal rationale for the 1986 arms transfers, pursuant to the January 17 Finding and noted that there were two problems with the Administration's position. First, Sofaer noted, one of the transfers occurred after an August 1986 amendment to the AECA which "absolutely prohibit[ed] shipments to Iran." 44 The second and "more serious" problem Sofaer identified was the "September 1985 Israeli transfer of arms to Iran" and the subsequent replenishment of those arms by the United States, 45 because there was no Finding authorizing either action. Sofaer added that "If Admin claims we did not approve Sept 85 transfer + it can be proved we did, its a Watergate style thing." 46 Sofaer had "suspicions" that people were "trying to hide the facts" and was concerned that Poindexter and Meese were "shutting . . . [him] out" because they already had their legal arguments set and didn't want him involved because he would "only permit arguments within certain parameters." 47

44 Hill Note, 11/18/86, ANS 0001837 (emphasis in original). The amendment, Section 509 of the Omnibus Diplomatic Security and Antiterrorism Act of 1986, Pub. L. No. 99-399 (1986), prohibits sending weapons to any country the Secretary of State has identified as a supporter of international terrorism. Secretary Shultz declared Iran a supporter of terrorism in 1984. (49 Fed. Reg. 2836 (1984).) The amendment was troublesome because it appears to absolutely prohibit arms shipments to Iran unless the President (1) determines the shipment is "important to the national interests of the United States" and (2) submits a report to Congress "justifying that determination" and describing the proposed shipment." Cooper ultimately decided the amendment was irrelevant to the Iran arms sales because the AECA itself did not apply to shipments made pursuant to the President's inherent authority as implicitly recognized by the National Security Act. (Memorandum for the Attorney General, 12/17/86, p. 13, ALV 077743.)

45 Ibid.

46 Hill Note, 11/18/86, ANS 0001837 (emphasis in original).

47 Sofaer, OIC Interview, 9/29/92 pp. 23-31.

Sofaer and Under Secretary of State Michael Armacost, who was to be the State Department's representative at the November 21 hearings before the Senate and House intelligence committees, met later on November 18 with Poindexter for a further briefing on the arms sales. According to Sofaer's memorandum of the meeting, Poindexter said that McFarlane had "refused expressly to sanction" in advance Israel's September 1985 TOW shipment to Iran but had indicated that the United States would continue to sell weapons to Israel even if it proceeded with the transfer. 48 Poindexter's presentation to Sofaer and Armacost once again omitted any mention of the November 1985 HAWK shipment. According to Sofaer's memorandum, he and Armacost "emphasized the need to prepare all witnesses carefully, and to answer correctly all questions, especially those related to activities prior to January 17." 49

48 Memorandum of Conversation from Sofaer, 11/18/86, ALV 000329.

49 Ibid., ALV 000333.

The morning of November 19, Shultz met with Hill, Armacost, and Deputy Secretary of State John C. Whitehead to discuss the possibility of resigning. The three agreed that Shultz and the State Department had been put in an untenable position by the public revelation that the Administration had been secretly selling arms to Iran while Shultz, who had known about the arms sales, had been promoting the official U.S. policy of discouraging arms sales to Iran and refusing to make concessions to terrorists.⁵⁰ Armacost complained that the NSC staff was "not telling . . . [State] the truth." ⁵¹

⁵⁰ Hill Note, 11/19/86, ANS 0001847.

⁵¹ Ibid.

Meanwhile, President Reagan was preparing for his press conference scheduled for that evening. Shultz met with the President that afternoon to attempt to persuade him to announce publicly that all aspects of U.S. foreign policy toward Iran would be returned to the State Department. Shultz argued that the President had been misled by his other advisers regarding Iran's role in terrorism and advised him to "watch out about saying [there had been] no deals for hostages." ⁵² According to Hill's notes of Shultz's report on the meeting, Shultz also told the President his understanding of the November 1985 HAWK shipment at that meeting: "Bud once told me about a plane of arms that would go if hostages released -- not if not. President knew of this -- but it didn't come off." ⁵³

⁵² Hill Note, 11/19/86, ANS 0001852.

⁵³ Ibid.

Meese did not participate in preparing President Reagan for the November 19 press conference, but he and Wallison agreed that the President should say he relied on Meese's advice that all the shipments were legal.⁵⁴ Wallison advised the President to "cite the AG" ⁵⁵ if legal questions arose.

⁵⁴ Wallison Note, 11/19/86, ALU 0138231, p. 262.

⁵⁵ Ibid.

Despite Shultz's warning, President Reagan insisted in his press conference that evening that there had been no exchange of arms for hostages. To dispel this "widespread but mistaken perception" of the policy, Reagan pledged that there would be no further arms sales to Iran and promised again that "all information will be provided to the appropriate members of Congress." In response to questions, President Reagan stated that no third countries had been involved in the arms sales. He also denied that there had been any U.S. involvement in arms sales to Iran before the January 17, 1986, Finding, even though he had just that afternoon told Shultz he knew of the November 1985 HAWK shipment.

Because Donald Regan had told reporters in an earlier briefing that the United States had acquiesced in an Israeli shipment of arms to Iran, the White House was compelled to issue a correction of the President's statement.⁵⁶

⁵⁶ Ibid., ALU 0138232, p. 263.

Shultz, who watched the press conference with Hill and another aide, was alarmed by President Reagan's inaccurate statements and asked the aide to review the transcript and identify the factual errors.⁵⁷ He immediately called Regan to schedule an appointment with the President the following day.

⁵⁷ Hill Note, 11/19/86, ANS 0001862.

Conflicting Stories on the November 1985 HAWK Shipment

On November 20, 1986, Meese and Cooper met for about two hours with Casey, CIA Deputy Director Robert Gates, Poindexter, Thompson, and North in Poindexter's office to prepare Casey's congressional testimony and Poindexter's congressional briefing scheduled for the next day. Meese's role in the meeting is unclear, largely because of his own conflicting testimony. In December 1987 Meese told the Grand Jury he "had been there primarily to be available in case any legal matters came up. I don't remember that any did particularly. I think we may have talked about the Arms Export Control Act." 58 In testimony before the Senate Intelligence Committee in December 1986, however, Meese indicated that discussion of the legal issues dominated, explaining that he had been present to ensure "they had properly represented the Findings in the chronology, and if I remember correctly we discussed the nature of the Findings, the legal theories that were involved, and it was that more than any factual basis." 59 Poindexter testified that Meese flagged the 1985 shipments as the key legal problem: "And sometime in that conversation Ed said that on both the September shipment of TOWs and the November shipment of HAWKs, that -- I don't want to put words in his mouth, but it was something along the line that it would make a difference whether the President approved it ahead of time or afterwards, or words to that effect." 60 This would become the theme of Meese's November 21-24 investigation as he sought to shield President Reagan from any question of illegal actions.

58 Meese, Grand Jury, 12/16/87, p. 163.

59 Meese, SSCI Testimony, 12/17/86, p. 17 (emphasis added).

60 Poindexter, Select Committees Testimony, 6/17/87, pp. 347-49.

The meeting focused on preparing Casey's testimony on the CIA's role in the November 1985 HAWK shipment.⁶¹ According to the draft of Casey's testimony, "We in CIA did not find out that our airline had hauled HAWK missiles into Iran until mid-January [1986] when we were told by the Iranians." 62 In fact, North and Poindexter, as well as many CIA personnel, knew in advance that the November 1985 shipment contained weapons. Casey had been told by McFarlane on November 14, 1985, that the Israelis were planning a weapons shipment to Iran; he was receiving intelligence reports which made clear the cargo was weapons, and he had seen the Finding CIA General Counsel Stanley Sporkin had prepared shortly after the shipment, which sought to retroactively authorize CIA involvement in it. Nevertheless, everyone in the meeting apparently remained silent while North revised the draft testimony to include the broader assertion that "no one in the USG [U.S. Government]" knew before January 1986 that the cargo was weapons.⁶³

61 Cooper, FBI 302, 11/21/90, p. 8. Thompson testified that the HAWKs were an issue during the preparation session, because it "was still a dangling paragraph to have the CIA suddenly receiving a call from somebody, a U.S. Government person or other, and then responding to it by having a CIA aircraft made available for this. It just didn't seem very characteristic of the way the CIA normally does operations, and so I think it called a lot of attention to itself. . . . I know that was certainly a concern of the Justice Department, that why would the CIA get involved in an airplane shipment and not know more about it, the basis for it." (Thompson, Grand Jury, 5/20/87, p. 157.)

62 Draft Memorandum Re: CIA Airline Involvement, 11/20/86, AMY 000732; Cooper, Select Committees Testimony, 6/25/87, pp. 239-42.

63 Cooper, Select Committees Testimony, 6/25/87, pp. 45-46; Draft Memorandum Re: CIA Airline Involvement, AMY 000732.

North also changed a statement about why the HAWKs were returned to Israel -- from an accurate account that the Iranians were dissatisfied with the type of missiles they were sold to a false account that the United States was upset about the arms shipment and "jaw-boned" the Iranians into returning the HAWKs.⁶⁴ Again, no one challenged North's change. Cooper testified that he had "no reason whatsoever not to accept" North's version of the return of the HAWK missiles.⁶⁵

64 Cooper, Grand Jury, 7/15/92, pp. 70, 39-40.

65 Ibid., p. 40.

Cooper said that no one objected to North's changes because, "[i]n fact, the meeting was such that with respect to all these changes . . . North seemed to be the person who had a basis for knowing what the facts were. It was my impression that Poindexter didn't know one way or the other on this. It was my impression that Casey didn't know one way or the other on these changes, and that he was, like I was, accepting of North's information because North appeared to know what he was talking about. . . ." 66

66 Cooper, Grand Jury, 1/11/88, pp. 55-56.

North, on the other hand, suggested that Casey, Thompson, Poindexter and Meese did not object to his changes, because "they had a darned good reason for not putting the straight story out, and their reasons might have been the same as mine." 67

67 North, Select Committee Testimony, 7/8/87, p. 93. North's basis for including Meese among those who knew that the United States had approved the November HAWK shipment in advance is unclear.

While North was shaping Casey's testimony, Hill at the State Department was briefing Sofaer and Armacost on the Iran arms sales from his contemporaneous notes to prepare for Armacost's testimony the next day. Hill disclosed that while in Geneva on November 18, 1985, McFarlane had told Shultz about a planned shipment of HAWK missiles to Iran in exchange for the release of the hostages.⁶⁸ During the briefing, Sofaer received a draft of Casey's proposed testimony.⁶⁹ Because he had just learned that Shultz knew of the November 1985 HAWK shipment in advance, Sofaer was skeptical of the assertion in Casey's draft testimony that the CIA did not learn the nature of the cargo of the November 1985 HAWK shipment until January 1986.⁷⁰ Sofaer told Hill that he was going to tell Meese and Wallison about his "concern about pre-Jan 17 '86 activities." ⁷¹

68 Sofaer Note, 11/20/86, ALV 000334.

69 Sofaer Chronology, 5/19/87, ALV 000306.

70 Ibid.; Sofaer, Select Committees Deposition, 6/18/87, pp. 31-37.

71 Hill Note, 11/20/86, ANS 0001867 (emphasis in original). Sofaer explained: "A/G & P[resident] in vulnerable position. A/G gave his opinion -- but probably not aware of pre-Jan/post-Aug activities. Yet now is being asked to support such activities. So I thought I'd call the A/G secure. To bring these facts to his attn, because P[resident] doesn't know the facts. And A/G opinion on post-Jan 17 acts as a wash for all arms shipments. Get every channel working to send enzyme into the system to eat away at it." (Ibid., ANS 0001867-68.)

At about 2:30 p.m. on November 20, Sofaer placed a secure call to Meese. Meese was still in the White House meeting preparing Casey's testimony, so Sofaer spoke to Deputy Attorney General Arnold Burns.⁷² According to Sofaer, he told Burns that he did not believe Casey's proposed testimony that everyone in the CIA thought the November 1985 shipment had contained oil-drilling parts because Shultz had contemporaneous notes that McFarlane knew the shipment was HAWK missiles.⁷³ After exchanging messages, Sofaer spoke again to Burns shortly before 4:00 pm. Burns said that Meese had spent the afternoon with Poindexter and Casey and "was fully aware of the facts [Sofaer] mentioned. [Burns] said the A.G. [attorney general] was profuse in his thanks for [Sofaer's] warning, and appreciated [Sofaer's] motives, but that he (the AG) knew of certain facts that explained all these matters and that laid to rest all the problems [Sofaer] might perceive."

According to Sofaer, Burns said ``the AG did not give him any facts, and that he was simply passing on the `mysterious' assurance that all was well." 74

72 Sofaer, Select Committees Deposition, 6/18/87, pp. 37-40.

73 Ibid., pp. 38-39. Burns could not recall the details of what Sofaer told him, but did not question Sofaer's version. (Burns, FBI 302, 10/29/87, p. 5.)

74 Sofaer Note, 11/20/86, ALV 000347-48. Burns said that, although he did not understand the information Sofaer had related, he relayed it immediately to Meese. (Burns, FBI 302, 10/29/87, pp. 5-6.) Burns vividly recalls walking upstairs to Meese's office and telling him in person as Meese was preparing to leave for the airport. Meese testified that Burns called him on his car phone while he was en route to Andrews Air Force Base. Meese said he ``advised Mr. Burns that this matter was being taken care of because we just had been going through putting together what was, to the best of my knowledge at that time, an accurate description of what had occurred." (Meese, Select Committees Deposition, 7/8/87, p. 67.)

After the Casey testimony preparation session, Thompson and Cooper met with Wallison at Wallison's request.⁷⁵ According to Wallison, they discussed the summer 1985 TOW shipment by Israel, which, they believed, the United States subsequently condoned:

75 Wallison Note, 11/20/86, ALU 0138235-36, pp. 266-67; Cooper, Grand Jury, 7/15/92, pp. 60-61.

Under the law this sale -- a violation of the AECA -- should have been reported to Congress but was not. Neither Cooper nor Thompson could think of any way to justify this lapse, and neither could I, but I suggested that we give some consideration to arguing that when the Israelis told us they had done this, the availability of the channel thus opened made the ensuing events part of an intelligence activity. This was a little farfetched in terms of the real facts, it turned out . . . and so we were thrown back to arguing that under the Const. [Constitution] the Pres. [President] has the inherent power to permit third countries to sell arms without reporting to Cong. [Congress]⁷⁶

76 Ibid., ALU 0138235, p. 266.

While the meeting was in progress, Sofaer, unsatisfied with Meese's assurance that all was well, called Wallison to discuss the discrepancy between Casey's proposed testimony and Hill's notes. According to Wallison, Sofaer ``was worried that the Pres. [President] had not told the truth last night [at the press conference], and hoped that the Pres. had not been informed fully." Sofaer ``then asked . . . whether [Wallison] knew about the sale of Hawk missiles by Israel to Iran in November." 77 When Wallison said he did not, Sofaer told him that McFarlane had informed Shultz in Geneva in November 1985 that Israel would be shipping HAWK missiles to Iran as part of an effort to free the hostages. Sofaer also told Wallison that North had worked with the CIA to arrange for the CIA proprietary airline to deliver the missiles. This, Sofaer said, made Casey's proposed testimony that the CIA did not learn that the cargo was weapons until January 1986 highly dubious and he suggested Wallison ``look into it." 78

77 Ibid., ALU 0138236, p. 267.

78 Sofaer, Select Committees Testimony, 6/18/87 pp. 42-43. Sofaer had not yet learned that Casey's testimony had been broadened to say that ``no one in the USG" knew the cargo was weapons until January 1986.

According to Sofaer, Wallison was ``in shock" after these disclosures.⁷⁹ Wallison described his reaction as follows:

79 Sofaer Chronology, 5/19/87, ALV 000306.

Since Cooper and Thompson were sitting right there, I asked them whether they had heard this story, and they confirmed that they had. Of course, if I had not asked they undoubtedly would not have told me voluntarity [sic].

This was perhaps the most serious disclosure of all. It indicates that well before the finding in January 1986 there had been in existence a plan to seek release of all the hostages by trading them for arms to Iran. . . . If the story is true, then everything the Pres. [President] had said about the foundations of our policy was incorrect -- if he was aware of these facts. Otherwise, if the Pres. was not aware, there had been a clear violation of the export laws which had not been reported to Congress. One could hardly argue that the Pres. had invoked his constitutional powers when he was not aware of what had been planned.⁸⁰

⁸⁰ Wallison Note, 11/20/86, p. 267, ALU 0138236.

Cooper recalls that while he knew of the November 1985 HAWK shipment, he was immediately concerned about the accuracy of Casey's proposed testimony that "no one in the USG" learned that the cargo was weapons until January 1986.⁸¹ According to Cooper, upon hearing of Shultz's conversation with McFarlane, he "turned to Paul Thompson and in very manly terms told him that he needed to get with North and McFarlane immediately and clear this up because that obviously was inconsistent with the information that North had just told us in Poindexter's office. . . ." ⁸²

⁸¹ Cooper, Grand Jury, 7/15/92, pp. 62-63.

⁸² Ibid., p. 65.

Cooper then went to his office, where he spoke with Sofaer directly.⁸³ He told Sofaer that Casey's testimony had been changed to include the broader denial that "no one in the USG" knew that the shipment contained weapons until January 1986. Sofaer told Cooper he knew that assertion was impossible because McFarlane had informed Shultz in November 1985 that the cargo would be HAWK missiles.⁸⁴ Cooper asked if Sofaer was certain, and Sofaer told him of Hill's contemporaneous notes, which indicated that McFarlane specifically told Shultz the cargo was HAWKS. Cooper felt that lent "a lot of credibility" to Shultz's story and that the "gravity of the inconsistency" between Shultz's recollection and the NSC version of events was greatly increased.⁸⁵

⁸³ Cooper, Grand Jury, 7/15/92, p. 65. Sofaer recalled that Wallison passed the phone to Cooper during their meeting and that Sofaer told Cooper what he had told Wallison. (Sofaer, Select Committees Deposition, 6/18/87, pp. 42-43.) He recalls having a second conversation with Cooper at approximately 6:00 p.m. during which they discussed the subject in more detail. (Ibid., pp. 45-49.) Cooper did not recall speaking with Sofaer directly until the second call. (Cooper, Select Committees Testimony, 6/25/87, pp. 59-61.)

⁸⁴ Sofaer, Select Committees Deposition, 6/18/87, pp. 47-49. Sofaer also told Cooper that he thought the CIA's version of its involvement in the November HAWK shipment was "untenable as a matter of logic." (Ibid., pp. 43-44.) Sofaer did not believe the CIA would have made such a substantial effort to support a shipment of oil-drilling equipment. He analogized the oil-drilling equipment story to the type of cover story used by drug dealers who never mention drugs by name in conversations, referring to them euphemistically as "shirts" or other objects. (Ibid.)

⁸⁵ Cooper, Grand Jury, 7/15/92, pp. 65-66.

Sofaer told Cooper that if Casey's testimony was not corrected, he would advise Armacost to tell Congress there was contemporaneous U.S. Government knowledge of the November 1985 HAWK shipment, taking a direct stand against Casey.⁸⁶ Sofaer also threatened to resign if Casey's testimony was not corrected. Cooper assured Sofaer that he shared Sofaer's concerns and that he would also resign if Casey gave false testimony to Congress.⁸⁷ Cooper then tried to contact Meese.

86 Cooper, Select Committees Testimony, 6/25/87, p. 64.

87 Cooper, Grand Jury, 7/15/92, pp. 80-81; Cooper, Select Committees Testimony, 6/25/87, pp. 64-65.

Meanwhile, Shultz went to the White House late in the afternoon on November 20 with a list of factual errors the President had made in his press conference.⁸⁸ In the presence of Regan, Shultz attempted to persuade the President that the public would never believe that the Iran arms sales were not an "arms-for-hostages" swap.⁸⁹ Shultz again raised the November 1985 HAWK shipment as an example and argued that the plan McFarlane had outlined to Shultz in Geneva was described expressly as an arms-for-hostages deal.⁹⁰ President Reagan responded that he knew about the November 1985 shipment, "but that wasn't arms for hostages." ⁹¹

88 Hill Note, 11/20/86, ALW 0059427. Weinberger, in contrast, noted that he "[w]atched President's press conference" and then "[c]alled President -- to congratulate him on his press conference." (Weinberger Note, 11/19/86, ALZ 0040547.)

89 Hill Note, 11/22/86, ALW 0059429-30.

90 Ibid.

91 Ibid. Shultz had briefly met with the President on November 19, before the press conference, but could not recall in his testimony whether he discussed the November 1985 shipment on the 19th or on the 20th. (Shultz, Select Committees Testimony, 7/23/87, pp. 110-12.) Hill's notes of November 19 reflect that Shultz told the President his version of the 1985 HAWK shipment discussions: "Bud once told me about a plane of arms that w[oul]d go if host[a]g[es] released -- not if not. P[resident] knew of this -- but it didn't come off." (Hill Note, 11/19/86, ANS 0001852.) On November 22, Shultz told Hill "I told P[resident] Thursday [November 20] of what Bud told me about Nov 85. He s[ai]d he knew it. When dug into -- will be shown that P[resident] pushed these people." (Hill Note, 11/22/86, ALW 0059428.) When Shultz was interviewed by Meese, he reiterated that story. (Ibid., ALW 005929-30.) Hill's notes thus suggest that Shultz discussed the 1985 HAWK shipment with the President on both November 19 and November 20.

Cooper finally reached Meese at West Point at 10:30 p.m. and told him about the factual dispute over the HAWKS.⁹² According to Meese, Cooper told him "there were concerns in the State Department that there was a good deal more knowledge within the Government about the fact of HAWKS being shipped in November 1985 that was known then than anything we had been led to believe earlier that afternoon." ⁹³ Meese paid attention to Cooper's concerns; Meese agreed that nothing should be said about the HAWK shipment until the facts were clear.⁹⁴ Meese told Cooper to contact David Doherty, general counsel of the CIA, and to go to the CIA in the morning to make sure Casey's testimony was changed.⁹⁵ At Cooper's urging, Meese decided to return to Washington the next day, cancelling a planned appearance at Harvard University.⁹⁶

92 Cooper Chronology, 11/86, ALV 077959.

93 Meese, Select Committees Testimony, 7/8/87, p. 69.

94 Although Meese could not recall any specifics about his conversation with Burns, he generally recalled that Burns informed him about "possible inconsistencies or inaccuracies in the proposed testimony of Mr. Casey." (Meese, Select Committees Deposition, 7/8/87, p. 68.) Meese said he "assumed" these "inconsistencies or inaccuracies" had been resolved by the changes and corrections made in the preparation session that afternoon. (Meese, Select Committees Testimony, 7/28/87, p. 68.) It is difficult to believe that Meese could reasonably have thought that any of those changes would have resolved whatever "inconsistency or inaccuracy" could have prompted an urgent call from Sofaer.

In a vague and circular response, Meese explained that the information Cooper gave him ``differed - it was much -- a whole new area of information that was beyond what I had assumed Mr. Burns was telling me because it went beyond the corrections that we had made in the testimony . . . in Mr. Poindexter's office." (Meese, Select Committees Deposition, 7/8/87, p. 72. Emphasis added.) One plausible explanation for Meese's changed reaction could be that Cooper apparently did not think the changes in the testimony made in Poindexter's office had corrected the problem Sofaer had raised. It is worth noting, however, that while Burns apparently did not tell Meese about any documentation of the inaccuracies or inconsistencies Sofaer had mentioned, (Ibid., p. 70,) Cooper told him that the State Department had a contemporaneous note that George Shultz had been informed in November 1985 by McFarlane that there were HAWKs on the shipment. (Cooper, Grand Jury, 7/15/92, p. 66.) As became apparent later in Meese's investigation, deniability of the President's involvement in the November 1985 HAWK shipment could be maintained if there were inconsistencies in memory; a contemporaneous note made it much more difficult.

95 Meese, Select Committees Deposition, 7/8/87, pp. 74-75; Cooper, Select Committees Testimony, 6/25/87, p. 66.

96 Ibid., p. 66.

After speaking to Poindexter at 11:00 p.m., Cooper called Doherty to tell him to delete the reference in Casey's testimony to U.S. knowledge of the HAWKs shipment; Doherty advised Cooper it already had been deleted.⁹⁷ Cooper then called Sofaer at 11:28 p.m. and told him that Meese shared their concerns about the November 1985 shipment and that Meese had canceled his Boston trip.⁹⁸ According to Sofaer's notes, Cooper had ``[v]ery many questions about CH's [Charles Hill's] notes. When taken? What written? AG [attorney general] very interested." Cooper told Sofaer that Thompson had spoken to North, who adhered to his story, and that Poindexter had tried to reach McFarlane but had been unable to do so. Cooper told Sofaer that Casey's testimony had been ``[a]djusted correctly to avoid [the] issue" of the November 1985 HAWK shipment. Sofaer congratulated Cooper, and they ``agreed P[resident] should not be placed at risk till truth is known. Worst outcome is `self-immolation.' Can deal w/ legal difficulties." ⁹⁹

97 Ibid., pp. 71-72.

98 Sofaer Note, 11/20/86, ALV 000350.

99 Ibid.

Although the broad assertion that ``no one" in the U.S. Government knew about the shipment was deleted from Casey's opening statement to the intelligence committees on November 21, Casey did not disclose that the Administration had participated in the November 1985 HAWK shipment.¹⁰⁰ Casey also failed to disclose the existence of the December 1985 presidential Finding to authorize retroactively CIA participation in the transfer.¹⁰¹ Casey was well aware of that Finding, which identified the November shipment as an ``arms for hostages" deal, because he had sent it to Poindexter for President Reagan's signature.¹⁰²

100 Casey, SSCI Testimony, 11/21/86, pp. 8-9, 31-32; HPSCI Testimony, 11/21/86, pp. 5-7.

101 Poindexter later testified that it was on this day that he destroyed the December 1985 Finding because it described a straight arms-for-hostages exchange and would be politically embarrassing. (Poindexter, Select Committees Testimony, 7/15/87, pp. 44, 123.)

102 Poindexter, Select Committees Deposition, 6/17/87, pp. 370-71.

Developing a ``Coherent Overview"

On Friday morning, November 21, 1986, Meese returned to Washington and met with Cooper, Burns, Assistant Attorney General William Bradford Reynolds, and chief of staff John Richardson.¹⁰³ According to Cooper, the group discussed the plan he and Meese had agreed to on the night before over the phone: that Meese would meet with the President and offer to take responsibility to investigate "the President's, the Government's knowledge" of the Iran arms sales "as accurately as possible, and completely as possible in as short a period of time as possible before some error was made." ¹⁰⁴ During the meeting, Cooper made a preliminary list of persons to interview -- McFarlane, Shultz, Sporkin, North, Poindexter, Weinberger, Vice President Bush, President Reagan, Regan, and Casey.¹⁰⁵

¹⁰³ Cooper, Grand Jury, 7/15/92, pp. 73-77; Meese Schedule, 11/21/86, ALV 080343.

¹⁰⁴ Cooper, Grand Jury, 7/15/92 pp. 73-76.

¹⁰⁵ Cooper Note, 11/21/86, ALV 077958; Cooper, Grand Jury, 7/15/92, pp. 77-78. Cooper was not certain whether he made his list before the meeting or during it, but it reflected his thoughts about "who should be talked to and roughly the order in which they should be talked to." (Ibid. pp. 77-78.)

Cooper took only two notes from his morning meeting with Meese: "Any legal problems. Are there other facts that would raise criminal problems." ¹⁰⁶ Cooper testified that there was a general concern about legal problems, including possible crimes. Cooper, at least, believed at that time that North and Poindexter had known that "there were HAWKS on the plane" and that the day before, "they were saying something to me and others in the room that they knew to be untrue and were suggesting that information should go to Congress." ¹⁰⁷

¹⁰⁶ Cooper Note, 11/21/86, ALV 077958.

¹⁰⁷ Cooper, Grand Jury, 7/15/92 pp. 78-82. Cooper had previously testified, when not confronted with his note, that while there was concern about contemporaneous knowledge by U.S. officials of the HAWK shipment, there was no concern about possible criminal violations. (Cooper, FBI 302, 1/6/88, p. 8; Cooper, Select Committees Deposition, 6/22/87 p. 126 (not a "suggestion or hint" of criminal violation at that point).)

Meese, on the other hand, denied that the legality of the November HAWK shipment was a concern in his investigation. He testified that his inquiry was premised on the "assumption that everything was legal," and he did not "believe the question of legality ever came up until the memorandum was found [on November 22] regarding the diversion." Asked when the issue of the legality of the November HAWK shipment arose, Meese responded, "I don't know that it ever did come up." ¹⁰⁸

¹⁰⁸ Meese, OIC Interview, 5/11/92 pp. 35-36. Cooper had taken a similar position before being confronted with his contemporaneous notes. At the 8:30 a.m. staff meeting on November 21, 1986, which Meese did not attend because his flight did not arrive from West Point until 8:30, the third item on the agenda was "Iran --> Legality --" (Meeting Agenda, 11/21/86, ALV 033705.) John Richardson, Meese's chief of staff and one of the three trusted aides Meese chose to conduct the weekend investigation, explained, "The big problem for us was what laws might have been kicked in to focus or violated by the Administration by shipping these arms in '85, before there was a Finding in '86, and that was the entire focus [of the investigation], whether the U.S. Government knew about it and authorized it." (Richardson, Grand Jury, 12/11/87, p. 43.)

While Meese was meeting with his staff, Regan was meeting with Wallison, who had been alarmed by Sofaer's revelation that McFarlane had briefed Shultz about the November 1985 HAWK shipment in advance.¹⁰⁹ Wallison told Regan that this shipment "raised serious legal questions because a shipment like that would either have to be reported as a shipment by the US or as a violation of the AECA by Israel, and neither was done." ¹¹⁰

109 Wallison Note, 11/20/86, p. 268, ALU 0138237.

110 Ibid.

After conferring with his staff, Meese met with the President, Poindexter, and Regan at 11:30 a.m. at the White House.¹¹¹ Meese explained that a problem had arisen with Casey's proposed testimony because "the CIA was doing some things, the Department of Defense was doing other things, the NSC staff had certain responsibilities, and so on, and because of the highly compartmentalized nature of the whole initiative . . . people had not talked to each other, you did not have the normal documentation and reporting, and . . . therefore there was a great deal of confusion . . ." ¹¹² Meese told the President it was "absolutely necessary" that "someone look into the matter . . . to develop a coherent overview of the facts," and offered to do it himself.¹¹³ The President accepted Meese's offer to "look into the matter," and asked him to report his findings at a senior advisers meeting set for November 24, 1986.¹¹⁴

¹¹¹ Meese, Select Committees Testimony, 7/28/87 pp. 75-76; Meese Schedule, 11/21/86, ALV 080343.

¹¹² Ibid., p. 76.

¹¹³ Ibid., pp. 76-77. Meese maintains that he was not acting in his capacity as attorney general in conducting an investigation, but rather was operating as any other Cabinet member might in compiling a factual "overview." (Meese, OIC interview, 5/11/92, p. 36.) In the North trial, Meese testified that he was acting as the President's counselor and friend. (Meese, North Trial Testimony, 3/28/89, pp. 5746-47.)

¹¹⁴ Ibid., pp. 77-78.

Meese said he did not ask President Reagan -- or Poindexter or Regan -- about his knowledge of the arms sales because it "didn't seem very important" at that stage of the inquiry. Cooper testified, however, that he and Meese had "resolved" in their telephone conversation the night before that Meese "was going to go in and talk to the President about the state of the President's, the Government's knowledge of the Iran matter and advise him that somebody needed to take responsibility for . . . collecting the facts as accurately and completely as possible." ¹¹⁵ Cooper included President Reagan on his list of persons to interview,¹¹⁶ but Meese, on a similar list, did not.¹¹⁷ In Cooper's mind, what the President knew about the November HAWK shipment and when he knew it was a "primary concern" of the investigation at that point.¹¹⁸ Meese, however, has testified that he never got around to asking the President what he knew about the HAWK shipment.¹¹⁹

¹¹⁵ Cooper, Select Committees Deposition, 6/22/87, p. 122 (emphasis added); Cooper, Grand Jury, 7/15/92, pp. 75-76.

¹¹⁶ Cooper Note, 11/21/86, ALV 077958.

¹¹⁷ Meese Note, 11/21/86, ALV 015778.

¹¹⁸ Cooper, Grand Jury testimony, 7/15/92, p. 94.

¹¹⁹ Meese, OIC interview, 5/11/92, p. 72.

At 12:30 p.m., following his meeting with the President, Meese returned to the Justice Department, where he met over lunch with his investigative team, all trusted political appointees -- Cooper, Reynolds and Richardson.¹²⁰ Meese wrote down a list of people to be interviewed, including McFarlane, Shultz, North, Thompson, Weinberger, Vice President Bush, and a number of CIA officials who had been involved in the November 1985 shipment. On a separate list entitled

``Action," Meese listed questions to ask various people. Next to Poindexter's initials, Meese wrote ``Every document, telephone logs, etc.[;] Contact person -- Paul Thompson?[, and] What did GPS [(Shultz)] give to or show RR [Ronald Reagan]?" Later that afternoon, Meese telephoned Poindexter and checked off each of the three questions.¹²¹

120 The choice of political appointees reflected Meese's concern that the President's ``political opponents . . . might try to claim that there was some kind of a cover-up and that would be a position of vulnerability even though there was absolutely no cover-up going on." (Meese, North Trial Testimony, 3/29/89, pp. 5854-55.)

121 Meese Note, 11/21/86, ALV 015779; Meese, Select Committees Testimony, 7/28/87, pp. 82-84.

Poindexter later testified that following this conversation with Meese, Poindexter called Paul Thompson and asked him to pull together the Iran documents. Later that afternoon, Thompson showed Poindexter the December 1985 Finding signed by the President, which sought to retroactively authorize the CIA's involvement in the November HAWK shipment. Poindexter then destroyed the only known signed version of that Finding.¹²²

122 Poindexter, Select Committees Deposition, 5/2/87, p. 108.

Meanwhile, McFarlane, who apparently had learned that the State Department had contemporaneous records relating to the November 1985 shipment, called Sofaer. Sofaer confirmed that the State Department had such records but did not disclose their contents. McFarlane asked whether Sofaer had given the records to the Justice Department, and Sofaer responded that he ``had passed on some alleged facts to protect P[resident]." Sofaer advised McFarlane to keep all his records, and McFarlane agreed.¹²³

123 Sofaer Chronology, 5/17/87, ALV 000308. Sofaer testified that he ``assumed" McFarlane had learned of the Hill note from Meese during a Meese-McFarlane interview on November 21. (Sofaer, Select Committee Deposition, 6/18/87, p. 62.) Sofaer's chronology, however, places the call from McFarlane before 3:00 p.m., while McFarlane's interview with Meese did not begin until 3:30 p.m.

Cooper called Sofaer at 3:00 p.m. to confirm that the President had authorized Meese to investigate. Cooper asked Sofaer to provide him with ``all info." Charles Hill, who distrusted Meese, was reluctant to relinquish his notes to Cooper, but Sofaer told him he had no choice.<sup>124</sup> Hill was also concerned that Sofaer's disclosure of Hill's November 18, 1985, note, revealing a planned ``arms-hostages swap" before the January 17, 1986, Finding, could ``be read as GPS [Shultz] fingering McF[arlane] for something that c[oul]d get him prison." ¹²⁵

124 Sofaer Chronology, 5/17/87, ALV 000308; Hill Note, 11/21/86, ANS 0001878-79. Hill, who was traveling with Shultz to Canada on the 21st, wrote in his opening observations for the day that ``g008Casey testimony has been changed. With recognition that Nov 85 shipment illegal, CIA & NSC both trying to say they g008didn't manage it -- & didn't know what was in it." (Hill Note, 11/21/86, ANS 0001873.) Recording a report of the congressional briefings later that day, Hill noted ``Leahy focusing on g008Nov '85 flt [flight] & why no one knew cargo." (Hill Note, 11/21/86, ANS 0001877, emphasis in original.)

125 Hill Note, 11/21/86, ANS 0001879.

At 3:30 p.m., Cooper and Meese interviewed McFarlane. According to Cooper's notes of the interview, McFarlane told Cooper and Meese that he thought ``he first learned of [the November 1985 HAWK shipment] when briefed for trip to Iran in May [1986]. Iran sent back HAWKS be/[cause] couldn't reach hi-altitude bomber. N[orth] -- briefed M[cFarlane] -- he was action-officer on this beginning Oct or Nov." The notes indicate that McFarlane then told Meese that he learned in Geneva on November 17 or 18, 1985, ``that Isr[ael] had shipped oil equipment." McFarlane claimed

Israeli Defense Minister "Rabine [sic] called from N.Y. and said they have problem w/ shipment to Iran" and McFarlane asked North "to assist." McFarlane said North reported that the shipment "hit snag in customs in [a European country]," and McFarlane subsequently called the European officials to ask for assistance. McFarlane, according to Cooper's notes, said he "remember[ed] no mention in all this of arms" and "doesn't g008remember chat w/ GS [George Shultz], but probably had one."
126

126 Cooper Note, 11/21/86, ALV 071809-10 (emphasis in original).

At the end of the interview, Cooper left and McFarlane and Meese had a brief private conversation. Meese testified that McFarlane "said something to the effect that I have been taking a lot of this on my shoulders 127 . . . but I want you to know -- it was something to the effect he wanted me to know that the President was generally in favor of pursuing the Israelis' ideas all along." 128 Meese said he responded by telling McFarlane to "not try to think how to protect the President, just tell exactly what happened." Meese added, "I think I said something like 'If the President knew earlier, it might even be helpful as a legal matter . . .'" 129

127 McFarlane had by that time already made public statements in which he took responsibility for the Administration's Iran policy. (Cooper, Grand Jury, 8/5/92, p. 11.)

128 Meese, Select Committee Testimony, 7/28/87, pp. 92-93.

129 Meese, OIC Interview, 5/11/92, p. 60.

Cooper's notes do not reflect any question or answer regarding what McFarlane told the President about the November 1985 HAWK shipment. Cooper testified that because the President's knowledge of the November 1985 shipment was a "primary concern" at that point of the investigation, it would have been "logical" to ask McFarlane whether he had told the President about the shipment.¹³⁰ Meese, who testified that "what the President knew was not an issue at that time," ¹³¹ said he did not ask McFarlane about what he had told the President about the November 1985 shipment.¹³²

¹³⁰ Cooper, Grand Jury, 7/15/92, pp. 94-95.

¹³¹ Meese, OIC Interview, 5/11/92, pp. 37-38.

¹³² Cooper, Grand Jury, 7/15/92, p. 101. Cooper thought McFarlane was "overwrought and nervous" and did not believe his story. (Ibid., p. 106.)

Following his interview, McFarlane sent a computer note to Poindexter stating:

[i]t appears that the matter of not notifying about the Israeli transfers can be covered if the President made a "mental finding" before the transfers took place. Well on that score we ought to be ok because he was all for letting the Israelis do anything they wanted at the very first briefing in the hospital. Ed seemed relieved at that.¹³³

¹³³ PROFs Note from McFarlane to Poindexter, 11/21/86, AKW 019148. McFarlane relayed a similar message to North by telephone immediately after the interview. (McFarlane, Select Committees Deposition, 7/2/87, p. 11; North Note, 11/21/86, AMX 001707.)

Meese testified, however, that he did not recall having discussed the concept of an oral or mental finding with McFarlane.¹³⁴

¹³⁴ Meese, Select Committees Testimony, 7/29/87, p. 12.

Cooper called Sofaer at about 6:30 p.m. to arrange an interview with Shultz the following morning. When Sofaer called Shultz to schedule the interview, Shultz told Sofaer that he had received a

message that McFarlane had asked Shultz to call him.¹³⁵ Sofaer advised Shultz against talking to McFarlane because it could "create an appearance that he is Coordinating his position with you" and "cause the A.G. [attorney general] to feel that he is not getting your views without any effects that might result from a discussion with McFarlane." ¹³⁶ Shultz spoke to Hill at 8:00 p.m., apparently to tell him about the interview with Meese the next morning. Hill suggested to Shultz that "Meese wants to see [you] to get the info on g008Nov '85 to show -- this weekend -- that P[resident] was mislead [sic]. So he can tell P[resident] on Monday." ¹³⁷ Hill testified that this comment reflected his suspicion that Meese had an agenda to insulate the President from responsibility for the November 1985 shipment.¹³⁸

¹³⁵ Sofaer Chronology, 5/17/87, ALV 000308; Hill Note, 11/21/86, ANS 0001878. It appears from Hill's notes that McFarlane called before his interview with Meese.

¹³⁶ Memorandum from Sofaer to Shultz, 11/21/86, ALV 000358; see also Hill Note, 11/21/86, ANS 0001879 (note of 5:20 pm conversation with Sofaer).

¹³⁷ Hill Note, 11/21/86, ANS 0001880.

¹³⁸ Hill, Grand Jury, 7/10/92, pp. 157-60.

Meese called Weinberger at 7:00 that evening. Weinberger wrote in his diary notes: "Ed Meese [called] -- President has asked him to put together paper covering whole Iran Episode." ¹³⁹ Meese later testified that he determined quickly that Weinberger (whose department was responsible for producing the weapons) could not contribute much information and that there was no need to interview him further.¹⁴⁰ Contrary to Meese's conclusion, Weinberger had much valuable information, none of which was discovered until 1991, when the OIC uncovered thousands of pages of Weinberger's daily notes and high-level meeting notes.¹⁴¹

¹³⁹ Weinberger Note, 11/21/86, ALZ 0040553.

¹⁴⁰ Meese, OIC Interview, 5/11/92, pp. 61-64.

¹⁴¹ See Weinberger section of report.

At 7:30 a.m. on Saturday, November 22, before the interview with Meese, Shultz and Hill met at the State Department. Shultz told Hill: "I told P[resident] Thursday [November 20] of what Bud [McFarlane] told me about Nov 85. He s[ai]d he knew it. When dug into -- will be shown that P[resident] pushed these people." ¹⁴²

¹⁴² Hill Note, 11/22/86, ALW 0059428.

The Shultz interview began at 8:05 a.m. Present were Shultz, Hill, Meese, and Cooper. Hill and Cooper took notes. According to Hill's notes of the interview, Meese remarked, "Abe's [Sofaer's] intervention fortuitous. Key revolving around Nov 85. 18 Hawks from Isr[ael] to Ir[an]. Then returned in Feb 86. I understand y[ou] had talk w[ith] Bud [McFarlane] about it." Shultz told Meese that during the summit in Geneva on November 18, 1985, McFarlane told him about deal in which HAWK missiles would go to Iran and the hostages would be released. Hill, who stepped in to provide additional detail, described it as a "complex deal" with the arms routed through an Asian country and the hostages coming out before the arms were delivered to Iran.¹⁴³ At that point, Cooper's notes record Meese as interjecting, "[I] recall vaguely that the plan described, perhaps at Jan 7 [1986] meeting, was to not provide any arms until the hostages were released." ¹⁴⁴

¹⁴³ Ibid., ANS 0001882; Cooper Note, 11/22/86, ALV 071839. Cooper, Grand Jury, 8/5/92, p. 65.

¹⁴⁴ Cooper Note, 11/22/86, ALV 071839.

After the interjection by Meese, Shultz began again: "g008You sh[oul]d know I went to P[resident] Thurs. night [November 20]. Asked to go see him. Went w[ith] DR [Regan] to family qtrs. . . . And I described Bud [McFarlane] talk to me in Geneva. P[resident] s[ai]d oh I kn [knew or know] about that -- but that wasn't arms for hostg! I sd [said] no one looking at the record will believe that." 145

145 Hill Note, 11/22/86, ANS 0001883. Cooper, who also took notes, recorded Shultz statement as "G.S. advised that M. [McFarlane] came to G.S. + told of deal. Pres. said he knew of it -- but didn't understand it as arms for hostages, but as part of larger plan." (Cooper Note, 11/21/86, ALV 071840.)

Meese, who has repeatedly claimed that he never asked the President about his knowledge of the November 1985 shipment,¹⁴⁶ responded that the "P[resident] didn't make notes. He had trouble remembering mtgs [meetings]." Meese then asked, "[a]s to Nov [November 1985] talk with Bud, no contact y[ou] know of that Bud had w[ith] P[resident] then?" Shultz replied, "not to my knowledge. Tho[ugh] I don't know." ¹⁴⁷

¹⁴⁶ Meese, OIC Interview, 5/11/92, p. 41.

¹⁴⁷ Hill Note, 11/22/86, ANS 0001883. Meese's question to Shultz is noteworthy in light of Meese's failure to ask McFarlane directly whether he had informed President Reagan of the November 1985 HAWK shipment.

Later in the interview, having established that (1) Shultz did not know whether McFarlane had told the President in November 1985 about the HAWK shipment, and (2) whatever the President had said to Shultz on Thursday night was suspect because the President "didn't make notes" and "had trouble remembering mtgs," Meese told Shultz that "[c]ertain things c[oul]d be violation of a law. P[resident] didn't know about HAWKs in Nov[ember 1985]. If it happened & P[resident] didn't report to Congress, it's a violation." ¹⁴⁸

¹⁴⁸ Ibid., ANS 0001888.

Cooper's notes include Shultz's statement that the President knew about the November 1985 HAWK shipment, but they omit Meese's remarks regarding legality and the President's knowledge. Cooper's notes generally track Hill's, but are less detailed: "G.S. [George Shultz] advised [President Reagan] that M[cFarlane] came to GS & told of deal[.] Pres. said he knew of it -- but didn't understand it as arms for hostages, but as part of larger plan." ¹⁴⁹ Cooper resisted interpreting his and Hill's notes as meaning that the President had said he knew of the November HAWK shipment. Even though he conceded that the entire discussion to that point in the interview concerned the November HAWK shipment and that the topic of discussion after Shultz's statement that the "Pres. said he knew of it" was the HAWK shipment, Cooper maintained that the "it" the President knew of was the Iran arms sales plan generally, not the HAWK shipment specifically.¹⁵⁰ According to Cooper, it would have struck him like a "lightning bolt" if he had understood Shultz to be saying that the President had said he knew about the November 1985 HAWK shipment. Cooper added, however, that he would have taken such a revelation "with some grain of salt" because the President could be forgetful.¹⁵¹ Ultimately, Cooper conceded that the "logical" interpretation of his and Hill's notes was that Shultz had told Meese that the President said he knew about the HAWK shipment in advance.¹⁵²

¹⁴⁹ Cooper Note, 11/22/86, ALV 071840.

¹⁵⁰ Cooper, Grand Jury, 8/5/92, pp. 105-08.

¹⁵¹ Ibid., pp. 83-85.

¹⁵² Ibid., pp. 82, 95.

Hill and Shultz told Sofaer, Nicholas Platt, Armacost, and Whitehead about the interview immediately afterward.¹⁵³ Shultz first asked Sofaer to clarify his role: Was he the President's lawyer or Shultz's lawyer? Sofaer responded that he could serve both Shultz and the President and explained that he felt an obligation to come forward with "info if indicates someone broke the law." Drawing an analogy to Watergate, Sofaer told Shultz he could not simply "step away from" evidence of wrongdoing by other officials "just because you are a nice guy." ¹⁵⁴ Shultz replied that he had "no trouble with being completely open about any possible violation of law," but he did have reservations about "dealing with the White House in circumstances like this." Shultz recounted how Poindexter had provided certain false information in the November 10, 1986, meeting and cautioned Sofaer to "be careful" about providing information to the White House.¹⁵⁵

¹⁵³ Sofaer's notes indicate that he had been excluded because Platt and Hill believed that Sofaer was acting as the President's lawyer rather than protecting the State Department's interests.

¹⁵⁴ Hill Note, 11/22/86, ANS 0001890-91.

¹⁵⁵ Ibid., ANS 0001891.

Sofaer assured Shultz that "[i]n terms of the law you are out of it," but "[t]he President is in the hands of people who are lying." Shultz noted that "President says that A/G [attorney general] should find out if people telling him things that not true. But it is that people telling him wrong characterization. . . ." Hill remarked "[t]he President just discovered the way out -- he was misled [sic]." ¹⁵⁶

¹⁵⁶ Ibid., ANS 0001892.

Shultz directed Hill to review with Sofaer his notes of the Meese interview. Hill's notes of the briefing quote Sofaer as saying, "when I told Meese about what you told me about McFarlane talk with S[hultz] in Geneva Nov 85, Meese told the President who said 'I didn't know about that. I never approved it.'" ¹⁵⁷

¹⁵⁷ Ibid., ANS 0001893. Sofaer testified that he never spoke directly with Meese on this issue, but dealt only with Cooper. He could not recall making the statement to Hill. (Sofaer, OIC Interview, 9/29/92, pp. 49-50.) On November 25, 1986, Hill's notes indicate that Sofaer said he "got [the] impression from Meese" that the President "didn't know" about the November 1985 HAWK shipment. To which Shultz responded, "Everybody running away from it." (Hill Note, 11/25/86, ANS 0001920.)

While Meese and Cooper were conducting interviews, Reynolds and Richardson were reviewing documents at the NSC. On the morning of November 22, 1986, they discovered in North's office files a memorandum that indicated that profits from the arms sales to Iran had been diverted to aid the contras. Reynolds and Richardson informed Meese of their discovery over lunch at the Old Ebbitt Grill.¹⁵⁸ At this point, the focus of the Meese inquiry became twofold: The continuing investigation of the HAWKS, and the question of whether an Iran/contra diversion had occurred and who had known about and approved it.

¹⁵⁸ Meese, Select Committees Testimony, 7/28/87, pp. 105-6.

After lunch, Meese and Cooper interviewed former CIA General Counsel Stanley Sporkin about the HAWK shipments.¹⁵⁹ This interview apparently was the first detailed account Meese and Cooper received of the existence of a retroactive Finding for the November 1985 HAWK shipment, which Sporkin had drafted. According to Cooper's notes, Sporkin disclosed that the "two guys from operations" at the CIA who had briefed him shortly after the shipment told him the operation was, in essence, an arms-for-hostages trade; Sporkin said the draft Finding reflected that fact. Sporkin's interview therefore made clear that CIA officials knew at the time of the November 1985 shipment,

or at least immediately thereafter, that the shipment contained weapons, not oil-drilling equipment as had been claimed in the NSC chronology and in Casey's original draft testimony. Cooper's handwritten notes of the Sporkin interview do not reflect whether Sporkin told them the Finding had been signed. Although Sporkin told Meese that the purpose of the December 1985 draft Finding was ``to ratify anything that had already been done," Meese did not ask whether the President had signed the Finding to make it effective.¹⁶⁰

159 Cooper Chronology, ALV 077961.

160 Cooper Note, 11/22/86, ALV 071859-61.

Following the Sporkin interview, Cooper arranged to meet with the two men from the CIA Operations Directorate who had briefed Sporkin shortly after the 1985 HAWKS shipment. Cooper spent the evening at the CIA conducting additional interviews.¹⁶¹

161 Cooper Chronology, ALV 077961.

On Sunday, November 23, from 2:00 p.m. to 5:45 p.m., Meese, Cooper, Richardson, and Reynolds interviewed North at the Justice Department. A list of questions drafted by Cooper aide John McGinniss focused on the November 1985 HAWK shipment. McGinniss's questions for North contained a section titled ``Presidential Knowledge" that included five questions covering the President's knowledge and approval of the HAWK shipment, whether any legal advice had been sought regarding the requirements of the Arms Export Control Act, and whether the President had made a decision not to report the shipment.¹⁶² As in his interview of McFarlane, Meese apparently did not ask North about the President's knowledge of the November HAWK shipment.

162 ``Questions for Oliver North," ALV 014311-13.

It was in this interview that Meese, in addition to questioning North about the arms sales, planned to confront him with the Iran/contra diversion memo that had been found in North's office the day before.

Meese opened by cautioning North that the ``[w]orst thing [that] can happen is if someone try to conceal something to protect selves, RR [Reagan], put good spin on it. Want nothing anyone can call a coverup." North nevertheless dissembled about his knowledge that the November 1985 shipment contained HAWK missiles. North claimed that Rabin told him the shipment contained ``oil related equipment," and he only learned later, from retired U.S. Air Force Maj. Gen. Richard V. Secord, that the shipment contained HAWK missiles.<sup>163</sup> North said he informed the CIA in late November or early December 1985 that the shipment had contained ``arms + not oil drilling equipment." ¹⁶⁴

163 Richardson Note, 11/23/86, ALV 071893-94.

164 Ibid., ALV 014607.

North denied knowledge of a retroactive Finding authorizing specifically ``for Hawks or future Hawks," explaining there had been ``one draft re: all previous acts" that had been worked on in mid-December 1985. Meese apparently did not ask, and North did not volunteer, whether a Finding covering ``all previous acts" had ever been signed.<sup>165</sup> North seemed to suggest it had been, however, by stating ``someone ought to step up and say this [the shipment] was authorized in Nov."

¹⁶⁵ Ibid., ALV 014612. The draft of the December 1985 retroactive Finding that survives approves ``[a]ll prior actions" involving trading ``munitions" to Iran to ``obtain the release of Americans held hostage in the Middle East." ALV 014320.

As in his interview with Shultz, Meese contradicted North at one point, disagreeing with North's assertion that President Reagan was not motivated by the desire to establish a strategic relationship

with Iran but rather ``wanted the hostages." Meese insisted that Reagan ``talked about both." 166 Meese told North, ``Concern protect RR [Reagan] but we need to know facts." 167

166 Richardson Note, 11/23/86, ALV 014619.

167 Ibid., ALV 014618.

North recognized the seriousness of the HAWKS issue, even after being confronted with the diversion memo. North confirmed for Meese that an Iran/contra diversion had taken place, and told Meese that the only other U.S. Government officials who knew of it were Poindexter and McFarlane. North said: ``If this [the diversion] doesn't come out, only other [problem] is the Nov. Hawks deal." 168

168 Ibid., ALV 014625.

After an hour of questioning North, Meese left the interview. Cooper, Richardson and Reynolds remained and there was further discussion of ``who knew 508/Hawks?" and of the contradictions between Shultz and McFarlane's memories of their conversation in Geneva in November 1985.¹⁶⁹ By this point, however, at least Cooper was convinced that Shultz was telling the truth and that the President knew of, and may have approved, the pre-Finding shipments.¹⁷⁰

¹⁶⁹ The ``508" appears to be a reference to the 504 TOW missiles transferred to Iran in August and September 1985. The ``Hawks" refers to the November 1985 shipment.

¹⁷⁰ Cooper, Grand Jury, 8/5/92, p. 124.

From 9:00 a.m.-10:15 a.m., on Monday, November 24, Cooper met with Sofaer and Hill at the State Department, and Hill read Cooper a chronology of Shultz-State Department knowledge of the arms sales, prepared from Hill's notes. Hill's chronology revealed not only that McFarlane had told Shultz of the November 1985 HAWK shipment in advance but also that Poindexter had called Shultz on December 5, 1985, and told him that the shipment had ``misfir[ed]" when Iran rejected the arms as too old. According to Hill's chronology, Poindexter also said he had gone to the President and urged him to stop the operation, ``but the President did not want to stop." ¹⁷¹

¹⁷¹ Cooper Note, ALV 071943-45; Hill handwritten chronology ALW 50566 (prepared 11/8/86).

Meese, meanwhile, met privately with McFarlane from 10:00 a.m. to 10:30 a.m. on Monday, November 24, 1986, to question him about the diversion. McFarlane confirmed that North had told him about the diversion. Meese did not take notes of the interview. After the interview, McFarlane prepared a three-page letter for Meese in which he set forth his views on the Iran situation and on U.S.-Soviet relations. With respect to the Iran arms sales, McFarlane wrote, ``I have written an accurate description of those events that that [sic] I believe might meet with the President's approval. I will be glad to pass it along if you wish." <sup>172</sup> According to McFarlane, Meese never requested a copy of the ``accurate description" and McFarlane never provided it.¹⁷³

¹⁷² Letter from McFarlane to Meese, 11/24/86, ALV 049175. Although the letter is not dated, McFarlane told the OIC that after his morning interview with Meese, he prepared the letter and dropped it off at Meese's house.

¹⁷³ Untranscribed OIC interview of McFarlane. McFarlane could not recall what he stated in the ``accurate description" of events. He did not retain a copy of the description. (McFarlane, OIC Interview, 10/2/92.)

After questioning McFarlane on November 24, Meese went to the White House to meet with Regan and President Reagan. Regan and Meese have given inconsistent testimony as to whether Meese advised President Reagan of the diversion during this morning meeting or simply alerted him to the

fact that the weekend investigation had turned up evidence they needed to discuss. Meese also met privately with Vice President Bush some time before the 2:00 p.m. senior advisers' meeting where Meese was to report the findings of his investigation. Meese took no notes of the discussion but he has testified that they discussed the diversion, and Vice President Bush indicated that he hadn't known about it.¹⁷⁴

¹⁷⁴ Bush Diary, 11/24/86, ALU 0140210; Meese, Select Committees Testimony, 7/29/87, pp. 119-20.

The Senior Advisers' Meeting

The senior advisers' meeting on the afternoon of November 24, 1986, included President Reagan, Vice President Bush, Shultz, Weinberger, Meese, Casey, Regan, and Poindexter. The discussion began with a review of the Iran arms sales by CIA official George Cave, who left the meeting after his presentation. In the second portion of the meeting, Meese did not announce the discovery of the diversion; he did, however, talk about the November 1985 HAWK shipment.

According to Weinberger's notes of the meeting, Donald Regan asked whether "we object[ed] to" the November 1985 HAWK shipment.¹⁷⁵ Poindexter falsely responded that, before December 7, 1985, McFarlane handled the Iran arms sales "all alone" with "no documentation." ¹⁷⁶

¹⁷⁵ Weinberger Note, 11/24/86, ALZ 0040669KK. Regan had called Wallison into his office on the afternoon of the 21st to tell him that Meese had been asked to investigate the Iran arms sales. Regan gave Wallison a copy of the NSC chronology of the arms sales, prepared by North, and asked Wallison to review it and provide Regan with a list of questions to ask at the November 24 senior advisers' meeting. Wallison's memorandum, which he delivered to Regan at home on Friday night, focused on what the President knew about the November 1985 HAWK shipment and when he knew it. (See Regan chapter.)

¹⁷⁶ Weinberger Note, 11/24/86, ALZ 0040669LL. As mentioned earlier, Poindexter on November 21 had destroyed the signed 1985 Finding that sought to retroactively authorize the HAWKs shipment.

Meese then told the group that McFarlane had outlined the planned shipment to Shultz in Geneva in November 1985, and briefly recounted how the shipment had gone awry, resulting in the missiles being returned to Israel in February 1986. According to Weinberger's notes, Meese advised the group that the shipment was "[n]ot legal because no Finding," but "President [not] informed." ¹⁷⁷ Regan's notes similarly show that Meese stated "[m]ay be a violation of law if arms shipped w/o [without] a Finding But Pres[ident] did not know -- Cap [Weinberger] denies knowing. Israelis may have done this . . . probably using Pres' [President's] name." ¹⁷⁸ Regan's notes also reflect Meese saying that the "Pres. [President] only told may be hostages out in short order." ¹⁷⁹

¹⁷⁷ Ibid., ALZ 0040669LL-MM (emphasis in original).

¹⁷⁸ Regan Note, 11/24/86, ALU 0139379.

¹⁷⁹ Ibid., ALU 0139378.

Assuming Meese testified truthfully when he said he did not discuss the November 1985 HAWK shipment with the President,¹⁸⁰ there appeared to be no factual basis for his statement. Meese's assertion that the President did not know of the November HAWK shipment directly contradicted the information Shultz had provided Meese in their Saturday interview, as well as McFarlane's assertion to Meese that the President supported and approved the arms sales from the beginning in the summer of 1985, and North's similar assertion regarding the HAWKs shipment specifically.

180 Meese, OIC Interview, 5/11/92, p. 41.

Cooper, who did not attend the November 24 senior advisers' meeting, had concluded from the weekend investigation that the President knew of the HAWK shipment and may have even approved it.¹⁸¹ According to Cooper, however, he and Meese did not discuss their respective conclusions about the President's knowledge of the HAWK shipment.¹⁸² He said they did not discuss what Meese would say at the senior advisers' meeting in reporting on the investigation.¹⁸³ Cooper said he felt there was no point in sharing his thoughts and conclusions with Meese because they had together interviewed McFarlane, Shultz, and North, so Meese knew what Cooper knew.¹⁸⁴

¹⁸¹ Cooper, Grand Jury, 8/5/92, p. 124.

¹⁸² Ibid., p. 128.

¹⁸³ Ibid., pp. 130-31.

¹⁸⁴ Ibid., p. 128.

In addition to Shultz and Meese, virtually everyone else present at the senior advisers meeting knew or should have known that Meese's claim that the President was "not informed" was false, but no one corrected Meese. Meese concluded the meeting by asking, "anyone know anything else that hasn't been revealed." ¹⁸⁵ Again, no one had anything to add. In addition, although Meese had informed at least Vice President Bush and Regan and President Reagan of the diversion by this time, no one apparently wanted to discuss that information in the group.

¹⁸⁵ Regan Note, 11/24/86, ALU 0139383. President Reagan had told Shultz and Regan only a few days earlier that he knew about the November 1985 shipment. Regan had not only been present for that conversation but had also been present when McFarlane briefed the President about the plan on two separate occasions in November 1985. McFarlane told Weinberger in November 1985 that the President has decided to implement the transaction through the Israelis. Casey and Poindexter both knew at least that President Reagan had attempted in December 1985 to validate retroactively the CIA's support for an arms-for-hostages transaction. Vice President Bush later said he had been present for a national security briefing in 1985 at which McFarlane explained the HAWK shipment.

Shultz had remarked to Hill in the morning, before the senior advisers' meeting: "They may lay all this off on Bud [McFarlane]. That won't be enough." ¹⁸⁶ Reporting to his aides after the senior advisers' meeting, Shultz said it "was the damndest meeting." Shultz, who had expected Meese to report fully on his weekend inquiry, said Meese had "said nothing" at the meeting. Shultz was astounded that the meeting had instead addressed the possibility of continuing the ill-fated arms-sale plan. Shultz characterized President Reagan as "very hot under the collar + determined he is totally right." ¹⁸⁷

¹⁸⁶ Hill Note, 11/24/86, ANS 0001898. Hill also recorded his concerns about Shultz's position, noting that the facts in Shultz's possession "point the finger at McF[arlane] + Pdx [Poindexter] and make him [Shultz] the star witness for the prosecution. So the day he testifies is his last day in office." (Ibid., ANS 0001899.)

¹⁸⁷ Ibid., ANS 0001894-909.

Shultz also reported to Hill after the meeting that Poindexter said "McF[arlane] ran it all by himself until Dec 4 '85 + no one knows what he did. I said I know something of what he did. An Aug. 85 mtg w P[resident] + me + Bud [McFarlane]. Bud sd all deniable. I sd impossible. They rearranging the record." ¹⁸⁸ Shultz added that the President is "now saying he didn't know anything about Bud's Nov '85 activities" -- in contrast to what the President had told Shultz just four days earlier.¹⁸⁹ Hill

hypothesized that the White House was carrying out ``thru Meese" a ``carefully thought out strategy" to insulate the President and ``blame it on Bud [McFarlane]." 190

188 Ibid., ANS 0001902.

189 Platt Note, 11/24/86, ALW 0039195; see also Hill Note, 11/24/86, ANS 0001904 (``P[resident] now saying he didn't know what Bud [McFarlane] was up to.").

190 Platt Note, 11/24/86, ALW 0039196.

At his November 25, 1986, press conference -- in which he announced the diversion of profits from the Iran arms sales to the Nicaraguan contras -- Meese reiterated the false story that the President did not learn of the November 1985 HAWK shipment until February 1986.¹⁹¹ He did not, however, publicly state the conclusion he had shared privately first with Shultz and later at the senior advisers' meeting -- that the November 1985 HAWK shipment was illegal because there was no Finding. In fact, he now declared all the shipments ``legal." ¹⁹²

191 Transcript of Meese Press Conference, 11/25/86, ALV 022208.

192 Ibid., ALV 022210-11.

In response to a question regarding the propriety of Shultz's public criticism of the arms sales, Meese stated at the press briefing: ``I think every member of the administration owes it to the President to stand shoulder-to-shoulder with him and support the policies that he has -- the policy decisions he has made[.]" ¹⁹³

193 The pressure on Shultz to resign was coming from all sides. Weinberger wrote in his diary notes on November 25:

Bill Casey -- on secure -- thinks Shultz should go to[o] . . .

[Called] Bill Clark in San Luis Obispo [sic] -- Bill Fr. Smith + Pete Wilson both will call President & urge that he dump Shultz[.]

(Weinberger Note, 11/25/86, ALZ 0040561-64.)

Was There a Cover-Up?

Although the Select Iran/contra Committees questioned Meese closely in 1987 about his November 21-24, 1986 inquiry, they did not question him about his remarks regarding the HAWK shipment at the November 24 meeting. Their focus was on the Iran/contra diversion. The Select Committees had only two contemporaneous records of the meeting -- Meese's notes and Hill's notes of Shultz's recollections immediately after the meeting. Meese's notes reflect Regan's question about the HAWK shipment and Poindexter's initial response, but they omit Meese's own lengthy presentation as to illegality and President Reagan's lack of knowledge. Hill's November 24, 1986 notes, which show that Shultz and his aides were concerned that the White House was presenting an inaccurate account of the November 1985 shipment, apparently were never explored fully by the Select Committees. They did not have the Regan and Weinberger notes cited above, which the OIC only obtained in 1992, despite having sent comprehensive document requests to both the White House and the Department of Defense in early 1987.

During their public hearings, the Select Committees did focus on the fact that Shultz had told Meese in the November 22, 1986, interview that the President knew of the November 1985 HAWK shipment. They questioned Meese closely about his assertion to the contrary at his November 25,

1986, press conference. Although they had Hill's notes, the Select Committees did not question Meese about why he had contradicted Shultz during the November 22, 1986, interview itself. They did not explore this subject with Shultz, either. The State Department, however, had anticipated such questions and prepared the following responses:

Q: On Saturday, November 22, 1986, Mr. Meese said to you that the President did not know about the 1985 HAWK shipment when it occurred.

A: Yes. Mr. Meese said that to me at that meeting. But I had already told Mr. Meese in that same Saturday, November 22, 1986 meeting that the President had told me he knew.

Q: Was Mr. Meese trying to get you to change your recollection?

A: You'll have to ask Mr. Meese.¹⁹⁴

194 ALW 0051382.

Both Shultz and Hill testified in 1992 that Meese's assertion in the interview that the President did not have contemporaneous knowledge of the November 1985 HAWK shipment struck them as peculiar at the time, given that Shultz had just told Meese the President did know. Shultz said he had simply assumed Meese had more information.¹⁹⁵ Hill, however, was more skeptical. He thought Meese was trying to get Shultz to back off of his claim that the President had admitted knowing about the HAWK shipment.¹⁹⁶ Hill described Meese's style of questioning as "leading," and said Meese had stood over Shultz during the interview, in a "back on your heels" manner.¹⁹⁷

¹⁹⁵ Shultz, OIC Interview, 6/4/92, pp. 85-86.

¹⁹⁶ Hill, Grand Jury, 7/10/92, pp. 165-66.

¹⁹⁷ Ibid., pp. 167-69.

In May 1992, the OIC questioned Meese about the newly discovered evidence of his activities in November 1986. He admitted that Shultz had told him that the President said he knew about the November 1985 HAWK shipment,¹⁹⁸ but he denied that he ever had any legal concerns about the HAWK shipment.¹⁹⁹ When confronted with the Hill, Regan, and Weinberger notes from November 1986, he denied ever having said that the November 1985 HAWK shipment violated the law or that the President did not know about the shipment:

¹⁹⁸ Meese, OIC Interview, 5/11/92, pp. 67, 70.

¹⁹⁹ Ibid., pp. 35, 41, 67-71.

Q: Did you express a concern to Mr. Shultz that it was important that the President not know about the '85 shipments because they could potentially be a violation of law?

A: No. I'm positive I didn't say that.

* * *

Q: [Reading from Hill's notes of Meese's November 22, 1986, interview of Shultz] "Certain things could be violation of a law. President didn't know about HAWKS in November. If it happened and President didn't report it to Congress, it's a violation."

Do you remember making such a statement to Mr. Shultz?

A: No, I don't. I don't remember that about violation of law and that sort of thing. . . . I don't know whether he misunderstood me or what I was trying to say there.

Q: Then it says ``President didn't know about HAWKS in November." Apparently you're telling Mr. Shultz that the President didn't know about HAWKS.

A: I'm sure I would not have said that. It seems strange to have me saying that. I'm not sure what that means.

Q: Because Mr. Shultz -- --

A: He had told me.

Q: -- -- told you that the President did know.

A: Yes, so that doesn't make any sense.²⁰⁰

²⁰⁰ Ibid., pp. 67-70 (emphasis added).

Meese did not flatly deny making the statements to Shultz, but he claimed to have ``no recollection of that portion of the conversation at all or whether that's accurate[.]" ²⁰¹

²⁰¹ Ibid., pp. 70-71.

Meese had a similar reaction to the Weinberger and Regan notes of his comments at the November 24, 1986, senior advisers' meeting. He again claimed not to recall any concern or statement about the legality of the November 1985 HAWK shipment or any statement that the President did not know about the shipment.²⁰² Ultimately, Meese said only, ``I can't explain it." ²⁰³

²⁰² Ibid., pp. 80-86.

²⁰³ Ibid., p. 86.

When confronted with his statement in the November 25, 1986, press briefing that the President did not learn about the HAWK shipment until February 1986, Meese responded, ``I'm confused now." ²⁰⁴

²⁰⁴ Ibid., pp. 92-93.

If Meese testified truthfully when he said he did not ask President Reagan whether he knew about the November 1985 HAWK shipment,²⁰⁵ then Meese had no factual basis for contradicting Shultz on November 22, 1986, by stating that the President did not learn of the HAWK shipment until after the fact. To the contrary, even North and McFarlane had each suggested that the President had approved the November 1985 HAWK shipment. The most plausible explanation for Meese's conduct is that he was trying to get Shultz to change his recollection. In the November 24 senior advisers' meeting, it appears Meese was trying to signal the other senior advisers that the official position should be that the President didn't know. Meese's motives for misrepresenting the President's knowledge are implicit in the preface to his statement to Shultz: ``certain things could be a violation of law." Meese, in effect, signaled Shultz that to disclose the President's knowledge of the November 1985 HAWK shipment would implicate the President in an illegal activity.

²⁰⁵ Ibid., p. 41.

According to Weinberger and Regan's notes, Meese communicated a similar message at the November 24, 1986, senior advisers' meeting, asserting again that the November 1985 shipment may have been illegal, but that the President was ``not informed." Meese and Poindexter's

statements at the November 24 meeting placed responsibility solely on McFarlane's shoulders, by suggesting that he had acted alone and exceeded his authority in operating without the knowledge or approval of the President. By asserting that McFarlane had "handled this all alone" with "no documentation," Poindexter suggested that McFarlane would not be able to prove otherwise.²⁰⁶

²⁰⁶ Meese had already made sure that Shultz was not aware of any direct contact by McFarlane with the President in Geneva regarding the HAWK shipment.

In 1992 Grand Jury testimony, Donald Regan conceded that he knew Meese's assertion that the President did not know about the 1985 shipment was false, and that Vice President Bush as well as Secretary Shultz also knew it was false. Regan admitted frankly that, in light of Meese's statement that the shipment may have been illegal, he was not willing to speak up to correct the record regarding the President's knowledge until a final determination was made regarding the legality of the shipment.²⁰⁷

²⁰⁷ See Regan chapter.

Three weeks later, Cooper drew out legal theories justifying all the arms shipments. With the legal rationale in place, the need to insulate the President from knowledge of the HAWK shipment was diminished although the problem of convincing Congress of the after-the-fact rationalization remained. Over time, Administration officials acknowledged certain facts of the President's knowledge, although the record remained extremely confused because some officials, most prominently Weinberger, lied to Congress about their own knowledge of the HAWKs and continued to obfuscate in subsequent testimony. The short life of the effort to insulate the President, coupled with the passage of more than five years before the Regan and Weinberger notes were uncovered, made further pursuit of a possible conspiracy futile. The passage of time also effectively killed a case against Meese for falsely claiming in 1992 not to recall that he had legal concerns about the November 1985 HAWK shipment or that he had stated at the senior advisers' meeting that President Reagan had not known of the November 1985 HAWK shipment. The sheer passage of time made Meese's claimed failure to recall the interchange at a meeting over five years in the past, dramatic and important though it was, too difficult to refute beyond a reasonable doubt.

Other Meese Problems

Independent Counsel investigated other aspects of Meese's conduct but decided against prosecution. There follows a brief summary of these investigations.

Meese's early testimony was marked by a conspicuous lack of recollection about significant events, even in the face of contemporaneously made records and other evidence. OIC concerns were heightened when Meese in the North trial was able to assist the defendant by clearly recalling in 1989 information he had failed to recall much earlier, at a time nearer the events in question. The evidence against Meese for his North trial testimony, however, never quite supported a perjury case against him.

In a series of Grand Jury appearances and FBI interviews in 1987 and 1988, Meese was questioned extensively about a number of areas, particularly the extent of his contacts with and his knowledge of North's contra-support activities, and whether Meese sought to delay federal investigations that might have exposed those activities.

Knowledge of North's Contra-Support Activities

Meese initially testified that he had only a "general recollection" that North "was involved in working on that whole project, the support for and assistance to the freedom fighters [contras] in Nicaragua as a part of his general responsibilities in the military office of the NSC staff." ²⁰⁸ He said he did not recall any conversation with North about his fundraising activities or his provision of

military supplies or tactical support for the contras. Meese was unapologetic about his repeated claims of memory loss. When asked directly why he could not recall whether he knew that North was providing tactical advice to the contras, Meese said:

208 Meese, Grand Jury, 11/18/87, p. 91.

Well, I can't tell you in sworn testimony here -- and this is why many questions I have to say I don't have any recollection. I want to be sure that I'm not testifying in any way that could be possibly subject to contradiction later on.²⁰⁹

209 Ibid., 11/20/87, p. 10.

Meese was asked repeatedly if he ever had any discussions with North about the contras and repeatedly side-stepped the question, saying he could not recall any. But he stopped short of actually denying that he did. For instance, when asked the question before the Grand Jury, Meese said:

Well, again, I told you that maybe a dozen times in the course of a year, it could have been as many as twenty, I would pass him [North] in the hall or see him on the street. He might have said something about that in passing but I can't recall at this time. It certainly was not anything significant. I can assure you of that.²¹⁰

210 Ibid., pp. 38-39.

Although Meese had a close relationship with CIA Director Casey and shared with Casey a desire to see the contras survive during the Boland cut-off period, Meese consistently failed to recall any conversation with Casey regarding North's activities or the CIA director's relationship with North. In his Select Committees deposition, Meese said he could not recall any discussions with Casey about North and he didn't know "how closely or remotely they happened to work together."²¹¹ He testified four months later that he was not aware of any special relationship between North and Casey.²¹² In later Grand Jury testimony, Meese admitted to a "dim recollection" that Casey asked him in May 1984 to intercede with the Marine Corps' decision to reassign North out of the NSC staff and back into the Marines.²¹³ "As I recall that was a time in which Mr. Casey indicated he thought very highly of Colonel North and what he was doing with regard to Central America," Meese said. Asked whether he knew what North was doing in this regard, Meese answered, "Again it's a very dim recollection, but my recollection is that he was talking about Ollie [North] knowing the situation there and doing a good job, or words to that effect."²¹⁴

211 Meese, Select Committees Deposition, 7/8/87, pp. 123-24.

212 Meese, Grand Jury, 11/11/87, p. 29.

213 Ibid., 11/18/87, p. 97.

214 Ibid., pp. 97-98.

Meese's notes of May 15, 1984, indicate that he discussed with Casey North's possible transfer and took immediate action to check North's status with the Marines.²¹⁵ Meese's recollection of Casey's call for help was much clearer almost 18 months later when he testified under cross examination in the North trial:

215 Meese Notes, 5/15/84, 55301467.

I had my assistant check with Admiral Poindexter or his deputy in the National Security Council staff, and received a report that the National Security Council -- the head of the National Security Council staff had approved the re-assignment in deference to Colonel North's career because the

transfer back to the Marine Corps would have given him the opportunity to command a battalion at Camp Lejeune.²¹⁶

²¹⁶ Meese, North Trial Testimony, 3/28/89, p. 5741.

Asked whether he dropped the matter at that point, Meese responded:

At that time, I notified Mr. Casey of the situation, indicated we didn't want to do anything to interfere with Colonel North's career, but I said that if he wanted me to go ahead and go further and talk to General Kelley, the commandant of the Marine Corps, I would be glad to do so if he felt further action was necessary.²¹⁷

²¹⁷ Ibid.

Advice on Whether Boland Restricted the NSC Staff

Meese testified before Congress that he did not believe that the National Security Council staff was restricted by the Boland Amendment prohibition on military aid to the contras.²¹⁸ He gave similar testimony before the Grand Jury.²¹⁹ He also testified that he did not recall giving advice to President Reagan or other Administration officials, either informally or in written opinions, regarding the Boland restrictions and which agencies were subject to them. For instance, in a Grand Jury appearance in November 1987, when Meese was asked about that, the following exchange occurred:

²¹⁸ Meese, Select Committees Testimony, 7/29/87, p. 310.

²¹⁹ Meese, Grand Jury, 11/18/87, pp. 108-9.

Q: Well, let me ask you then specifically, between the time you became Attorney General in February of 1985 and November 25th, 1986, were you ever asked to give an official Department of Justice Opinion on the Boland Amendment, what activity was or was not prohibited, and to whom it applied?

A: I don't believe we were, and I have no recollection that we were. It's possible, again, that there could have been requests that I wouldn't see in the normal course of business. But I don't have any recollection of that happening.²²⁰

²²⁰ Ibid., p. 113.

The question was then extended to include any oral, informal opinion, even in general conversation:

Q: Now you mentioned that on occasion you would see Colonel North in the hallways over at the White House and have conversations with him. To your knowledge -- well, did you ever have any conversation with him about the Boland Amendment and about whether it applied to the NSC staff or what was prohibited by it?

A: I can't ever recall having such a conversation with Colonel North.²²¹

²²¹ Ibid., pp. 113-14.

To try to nail down the point completely regarding Meese's assertion that he gave no advice to anyone regarding the Boland restrictions, the following exchange occurred:

Q: So just to make it clear, when [Associate Counsel] Ms. Hetherton used the term "oral opinion", sometimes when we use the word "opinion" as lawyers we are talking about something fairly formal even if it is oral. Do you recall any conversations or discussions or advice or something short

of advice that you had with anybody before November of 1986 on the matter of the Boland Amendment?

A: No.

Q: (By Associate Counsel Judith Hetherton): So we are broadening the question now beyond Colonel North to include the President, the Vice President, the Chief of Staff, Mr. Regan, Mr. Casey, Mr. McFarlane, Admiral Poindexter, Cdr. Thompson, Craig Coy, Robert Earl, anyone else. To your knowledge, did you have any conversations with any of them about the Boland Amendment, to whom it applied, and what it restricted?

A: I don't recall ever having such a conversation.²²²

²²² Ibid., p. 114.

Although President Reagan both publicly and in answer to written interrogatories posed by Independent Counsel stated that he did not believe that the Boland restrictions applied to NSC staff, the OIC found no evidence that the White House ever sought from the Justice Department a written opinion on Boland.

In the North trial, however, Meese had a distinctly different recollection on this subject under cross examination by North's attorney:

Q: Mr. Meese, during the timeframe 1984, did you ever have a discussion with the President in which you indicated to him what your views were with regard to whether Boland applied to the National Security Council?

A: I participated in meetings of the National Security Planning Group in which this was discussed, to the best of my recollection.

The Court: The question is -- --

Meese: And the President was there, and there was such a discussion.

The Court: The question is: Did you give any advice, not what anybody else said but did you give any advice as to whether it applied or not?

Meese: Yes, your honor.

The Court: What was your advice? This is the question.

Mr. Kecker [Associate Counsel John Kecker]: Could we have the date?

The Court: We will get the date.

Meese: I have a general recollection, your honor, of giving my opinion in those meetings, in at least one meeting, and my opinion was, and my view then and now was that the Boland Amendment did not apply to the National Security Council staff.

The Court: And when did you give that view?

Meese: That would be in National Security Planning Group meetings, and I believe during 1984 when this was under discussion.²²³

²²³ Meese, North Trial Testimony, 3/29/89, pp. 5823-24.

The Nature of Meese's Investigation

Meese was called as a Government witness in the North trial because two of the charges were based on North's false account of the Iran arms sales diversion and other lies he told the attorney general during a November 23, 1986, interview.

Under cross examination, Meese agreed with North's counsel that his questioning of North as part of his November 21-24 weekend inquiry was "almost like coworkers in the Administration . . . trying to understand what the basic facts" were. To the defense counsel's assertion that his inquiry, with three of his most senior assistants present, was more or less a chat among colleagues, Meese responded, "That's correct."²²⁴ Similarly, Meese agreed when defense counsel gave this description of his mission in questioning North:

²²⁴ Ibid., 3/28/89, p. 5758.

. . . And your focus was not really the focus of an attorney general wearing the attorney general's hat but it was basically to try to gather information to protect the President as best you could and deal with this enormous political problem brewing in the Congress, correct?

A: Yes.²²⁵

²²⁵ Ibid., p. 5749.

Trial Judge Gerhard A. Gesell interrupted:

The Court: Are you saying then that Lieutenant Colonel North had no obligation to answer your questions?

Meese: He would have had no obligation other than as a loyal member of the Administration and a person in the White House. In other words, there was no legal compulsion in the normal sense as there would be perhaps in a criminal investigation.

The Court: So he could have said, I would rather not answer?

Meese: He could have said that, yes.²²⁶

²²⁶ Ibid.

Meese's Awareness of Third-Country Contra Funding

On the question of the Reagan Administration's efforts to solicit third-country contributions to support the contras, Meese changed his testimony between the time he was first asked about it by the FBI in December 1986 and his appearance in the North trial, more than two years later. In his initial FBI interview, Meese said he had no knowledge of third-country funding for the contras.²²⁷ Following public revelations about the misplaced \$10 million Brunei contribution, Meese told the House Permanent Select Committee on Intelligence (HPSCI) that he had no "personal knowledge" of U.S. Government solicitations of third countries other than Brunei, "nor was it discussed in any NSC meetings that I can recall."²²⁸

²²⁷ Meese, FBI 302, 12/4/86, p. 5.

²²⁸ Meese, HPSCI Testimony, 12/19/86, pp. 95-96.

After Saudi Arabia's contributions were publicly disclosed in the Select Committees hearings, Meese was asked in July 1987 by congressional investigators about his knowledge of meetings of President Reagan with King Fahd of Saudi Arabia or Prince Bandar, the Saudi ambassador to the United

States. "I don't have any recollection of knowing about those meetings at the time. I think that was during 1985 and 1986; . . . Maybe it was in 1984. I don't have any -- I don't recall at this time that I knew about it. It is possible that I did." 229

229 Meese, Select Committees Deposition, 7/8/87, p. 159.

Confronted with the minutes of the National Security Planning Group (NSPG) meeting on June 25, 1984, at which third-country funding for the contras was debated, Meese said: "I don't recall the meeting, no, but again the minutes here are not inconsistent with anything I generally recall." 230 The minutes quote Meese as interjecting:

230 Meese, Grand Jury, 11/18/87, pp. 79-80.

As another non-practicing lawyer I want to emphasize that it's important to tell the Department of Justice that we want them to find the proper and legal basis which will permit the United States to assist in obtaining third party resources for the anti-Sandinistas [contras]. You have to give lawyers guidance when asking them a question.231

231 Minutes of the June 24, 1984 NSPG Meeting, ALU 007874.

McFarlane testified publicly at the Select Iran/contra Committee hearings that the initial Saudi donation to the contras occurred in the spring or summer of 1984, following discussions by him with Prince Bandar. Meese recalled June 1984 discussions with the Saudis, but when asked what he knew about third-country funding, he said, "I don't recall anything that I knew at that time." Asked if he remembered any approaches to foreign countries while counselor to the President, he said: "Again I have a general recollection that those activities took place but I can't specifically recall anything." 232

232 Ibid., pp. 87-88.

Meese's wavering recollection of what and when he knew about third-country funding for the contras solidified by the time he testified in the North trial:

Q: Now, in the National Security Council, as a result of your participation on the Council and as a result of your position as counselor to the president, did you learn in 1984, Mr. Meese, that Saudia [sic] Arabia was giving assistance to the United States to fund the freedom fighters [contras]?

A: I recall learning that more in my position as counselor to the president.

Q: Yes, that's what I mean, as counselor to the president.

A: Yes.

Q: Would that have been in early 1984 that you first learned about that, sir?

A: I can't place it exactly, but that sounds about right.

Q: Did you learn specifically that Mr. McFarlane was dealing with an official of the Saudi Arabian government in working out arrangements so that they would provide a million dollars a month to the freedom fighters?

A: I don't believe I knew the exact amount or the detail, but I did know generally that that was going on, yes.233

233 Meese, North Trial Testimony, 3/29/89, p. 5824.

Posey-Corvo Investigation

Independent Counsel investigated the circumstances surrounding Meese's intrusion in two federal investigations that could have exposed North's contra-support activities. Independent Counsel found no direct evidence that Meese obstructed either of these investigations, although he openly admitted seeking a delay in one to avoid exposure of the Iran hostage-recovery efforts.

The Posey-Corvo case was being investigated by the U.S. Attorney's Office in Miami. It involved allegations of contra-related gun-running, drug trafficking and Neutrality Act violations. Among the allegations surrounding the case were an attempted assassination plot against a U.S. ambassador. Meese and others in Washington who expressed special interest in the Posey-Corvo case cited the assassination allegations as the cause for their interest.

Jeffrey Feldman, an assistant U.S. attorney in Miami, began in early 1986 investigating the Posey-Corvo matter, based in part on allegations by Jesus Garcia, who had been convicted in December 1985 for illegal possession of a machine gun. Garcia claimed that a pro-contra mercenary group led by Thomas Posey had plotted to assassinate U.S. Ambassador to Costa Rica Lewis A. Tambs to collect a bounty placed on Tambs' head by a drug kingpin, and then to blame the assassination on Nicaragua's Sandinista government to build public support for the contras. At the same time, other sources told federal investigators that North, Robert W. Owen, and John Hull, an American rancher living in Costa Rica, were involved in gun-running.

The OIC declined to take over the Posey-Corvo case but did investigate a possible obstruction of justice regarding it. It was determined that the allegations were not supported by the evidence.

In the course of his investigation, Feldman reported hearing rumors about a contra-resupply network run by North. On a trip to Costa Rica, Feldman on March 31, 1986, laid out the assassination allegations to Tambs and CIA Costa Rican Station Chief Joseph F. Fernandez.²³⁴ North's notebooks reflect a call from Fernandez noting Feldman's visit to Costa Rica with FBI agents.²³⁵ On April 7, 1986, North received a memo from Owen in which he identified the investigators who came to Costa Rica and quoted Feldman as stating he was not only looking at Neutrality Act violations but also the unauthorized use of Government funds.²³⁶

²³⁴ Feldman during his presentation on the gun-running allegations showed Tambs a chart that listed North, Owen and Hull; Tambs appeared shaken, according to Feldman. (Feldman, Select Committees Deposition, 4/30/87, p. 50.) Feldman did not know that he was speaking to two Government officials who were assisting North in contra-support efforts.

²³⁵ North Note, 3/31/86, AMX 001042-43.

²³⁶ Memorandum from Owen to North, 4/7/86.

On April 4, 1986, Feldman briefed Kellner and several other members of the U.S. Attorney's Office in Miami. Assistant U.S. Attorney David Leiwant, who was present for part of the meeting, said that Kellner received a phone call from Washington during the meeting, in which an unknown official told Kellner to go slow on the investigation.²³⁷ Neither Feldman nor anyone else in the meeting corroborated Leiwant's allegations.

²³⁷ Leiwant, FBI 302, 4/6/87, pp. 1-2, 4.

Meese's most direct involvement in the Posey-Corvo matter came during a trip with Assistant Attorney General Lowell Jensen and FBI official Oliver "Buck" Revell to Miami on April 12, 1986.

Meese inquired about the Posey-Corvo case, and Kellner said he told Meese that no credible information had been found to support either the assassination or gun-running allegations.²³⁸ Meese

denied that he asked Kellner to slow down the investigation or that he instructed anyone else to do so.²³⁹

238 Kellner, FBI 302, 4/7/87, p. 2

239 Meese, Grand Jury, 11/18/87, pp. 146-47.

After a series of delays, on October 6, 1986 -- one day after a contra-resupply plane carrying Eugene Hasenfus was shot down in Nicaragua -- a decision was made in the U.S. Attorney's Office in Miami to send the Posey-Corvo matter to a Grand Jury.

Independent Counsel determined that the heightened interest in the case by Washington officials was understandable in light of the alleged assassination plot. In Miami, delays in presenting the case to a Grand Jury were attributable to the fact that Feldman's superiors considered it a routine gun-running case and that the matter was not sufficiently developed. There was a large volume of serious drug and weapons cases based in Miami. During the first half of 1986, no one in the U.S. Attorney's Office was aware of North's actual involvement with the contras. When Feldman stumbled onto North's contra-resupply network in early 1986, his focus was on the gun-running and assassination aspects of the case.

The evidence did not support an obstruction charge.

Role in Delaying FBI and Customs Investigations Into Southern Air Transport Following the Hasenfus Shootdown

Meese admitted that he sought to delay the FBI and Customs Service investigations of Southern Air Transport (SAT) in the wake of the Hasenfus shootdown on October 5, 1986. He testified that he did so at Poindexter's request and possibly also spoke to North about the matter.²⁴⁰ Meese said his purpose in delaying the investigations into Southern Air Transport -- which was involved in both the Iran and contra operations -- was to keep Iran arms sales from being publicly exposed while hostage-rescue efforts were underway. Although there was circumstantial evidence that Meese was aware of North's contra-support activities, Independent Counsel determined that the evidence did not prove that Meese delayed the investigations of SAT for a purpose other than to protect the hostage-rescue operation.

240 Meese, Grand Jury, 12/16/87, pp. 103-4.

Robert Dutton of the contra-resupply operation said North told him on October 9, 1986, that he had talked to Meese about the Customs investigation of SAT and that the matter would be taken care of.²⁴¹ A North notebook entry suggests that North at least intended to bring it to Meese's attention:

241 Dutton, Select Committees Testimony, 5/11/87, pp. 87-88.

[box] g008Ed Meese

-- SAT EXPOSURE =

IRAN/HOSTAGE EXPOSURE 242

242 North Note, 10/10/86, AMX 001582.

Meese said he had little awareness of the Hasenfus shootdown in early October 1986 and did not recall discussing it with other Administration officials.²⁴³

243 Meese, Grand Jury, 12/16/87, p. 27.

On October 13, 1986, North noted continuing concern over exposure of the SAT matter, this time apparently connecting it to exposure of Secord's Iran involvement:

[box] Ed Meese

-- SAT/RVS [Richard V. Secord] --

IRAN 244

244 North Note, 10/13/86, AMX 001586.

Meese said his involvement in the SAT investigations began October 30, 1986, when Poindexter called him to request a delay in the investigation of SAT by FBI and Customs. Meese said Poindexter told him

. . . the FBI was seeking to interview people at the Southern Air Transport or to get some records from Southern Air Transport, something along that line, and that the people they were supposed to talk with at Southern Air Transport were involved in the Iran initiative project and they were needed to be away during a certain period of time therefore, I think it was about 10 days, and would it be possible to delay the FBI interviews or contacts with them for a short time. And I said I would find out if it was, and if that would not interfere with the investigation that was being conducted, I would see if that could be done.²⁴⁵

²⁴⁵ Meese, Grand Jury, 12/16/87, pp. 41-42.

Meese added that it was possible that Poindexter said to get back to him or North if he had any questions.²⁴⁶ Meese said Poindexter probably also mentioned the Customs probe as well as the FBI probe.²⁴⁷ Meese said he did not discuss with Poindexter SAT's connection to the Hasenfus case, despite a prominent story in The Washington Post that day reporting on the connection.²⁴⁸

²⁴⁶ Ibid., p. 43.

²⁴⁷ Ibid., pp. 41-42, 46.

²⁴⁸ Ibid., pp. 45-46.

Meese characterized the delay in the SAT investigations as a brief one: 10 days. The FBI investigation, however, was not resumed until November 26, 1986, after the Iran/contra diversion had been exposed. After receiving Poindexter's request for a delay in the investigations, Meese turned the matter over to Assistant Attorney General Stephen Trott. Trott called FBI Director William Webster on October 30, 1986, asking that all non-urgent investigations be stopped to keep from jeopardizing the hostage operation, and Webster agreed.

Meese spoke with Baker about the Customs investigation of SAT generally, but their recollections differ.²⁴⁹ Baker said that Meese at an uncertain date approached him at a White House meeting and said he wanted to talk about an overzealous Customs investigation.²⁵⁰ According to Baker, Meese said national security matters were involved but Meese did not go into specifics.²⁵¹

²⁴⁹ Meese, FBI 302, 12/19/86, p. 1.

²⁵⁰ Baker, FBI 302, 12/18/86, p. 1.

²⁵¹ Ibid.

A memo for the record by North on November 14, 1986, describes a conversation North had with Revell of the FBI about the investigation delay. According to the memo, Revell told him that 10

days before he

. . . received guidance from Attorney General Meese to ``suspend" the investigation of Major General Secord's involvement in support of the Nicaraguan resistance and that the Attorney General had discussed the Customs' investigation of SAT with Treasury Secretary Jim Baker. On Mr. Revell's advice, North called Associate Attorney General Stephan [sic] Trott to solicit his advice on the matter.

At 12:10 p.m. on November 14, Trott advised North by secure phone that the Secord and SAT involvement with the Iran covert action had been the subject of a discussion between Trott and the Attorney General and a separate discourse between the Attorney General and Treasury Secretary Baker. Trott indicated that Secretary Baker had planned to advise Customs regarding sensitivity to SAT's involvement in sensitive U.S. government operations.

Trott informed that he would discuss this matter immediately with Attorney General Meese and indicated that he (Trott) fully understood the need not to divulge SAT or Secord's roles in support of the Iran covert action. Trott indicated that he would advise us of the results.²⁵²

²⁵² North memo to the Record, 11/14/86, AKW 006105.

Revell confirmed that he and North in the second week of November 1986 discussed the SAT matter and Secord.²⁵³ Revell said he told North the FBI would continue its investigation. Revell said North's memo is accurate except that he did not tell North he had received guidance from Meese.²⁵⁴

²⁵³ Revell, FBI 302, 12/16/86, p. 3.

²⁵⁴ Ibid.

Trott said North called him and asked that Meese intervene in the Customs investigation through Baker, to slow down the investigation or narrow the Customs subpoena for SAT documents.²⁵⁵ Trott said he discussed North's call with Meese, and Meese later told him he had discussed the matter with Baker.²⁵⁶ Trott's notes of the phone call with North on November 14 indicate the concerns were Iran-related:

²⁵⁵ Trott, FBI 302, 12/15/86, pp. 2-3.

²⁵⁶ Ibid., 3/29/88, p. 5.

O.N. . . . Legit covert action . . . J.P. Customs Florida S.A.T. -- 6 missions into Tehran -- sanctions [noted in margin: ``sensitive stuff"] . . . NOT down south connected . . . SEACORD = Customs g008all S.A.T. records . . .²⁵⁷

²⁵⁷ Trott Note, 11/14/86, ALV 011083 (emphasis in original).

During the second week in November 1986, FBI officials asked DOJ whether the SAT investigation could be resumed. Trott asked Meese. Meese said he called Poindexter on November 14, 1986, to asked whether the FBI could resume its inquiry of SAT; Meese said Poindexter told him on November 18 that the investigation could proceed.²⁵⁸ On November 20, 1986, Trott advised Revell that the FBI investigation of SAT should resume.

²⁵⁸ Meese, Grand Jury, 12/16/87, pp. 53-56.

Although these investigations threatened the exposure of the contra-resupply operation as well as the Iran arms sales, OIC obtained no convincing evidence that Meese sought the delay for reasons other than those he claimed: keeping secret the hostage-rescue operation.

