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FINAL REPORT OF THE
INDEPENDENT COUNSEL FOR
IRAN/CONTRA MATTERS

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Investigations and Prosecutions

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Chapter 16

Robert M. Gates

Robert M. Gates was the Central Intelligence Agency's deputy director for intelligence (DDI) from 1982 to 1986. He was confirmed as the CIA's deputy director of central intelligence (DDCI) in April of 1986 and became acting director of central intelligence in December of that same year. Owing to his senior status in the CIA, Gates was close to many figures who played significant roles in the Iran/contra affair and was in a position to have known of their activities. The evidence developed by Independent Counsel did not warrant indictment of Gates for his Iran/contra activities or his responses to official inquiries.

The Investigation

Gates was an early subject of Independent Counsel's investigation, but the investigation of Gates intensified in the spring of 1991 as part of a larger inquiry into the Iran/contra activities of CIA officials. This investigation received an additional impetus in May 1991, when President Bush nominated Gates to be director of central intelligence (DCI). The chairman and vice chairman of the Senate Select Committee on Intelligence (SSCI) requested in a letter to the Independent Counsel on May 15, 1991, any information that would "significantly bear on the fitness" of Gates for the CIA post.

Grand Jury secrecy rules hampered Independent Counsel's response. Nevertheless, in order to answer questions about Gates' prior testimony, Independent Counsel accelerated his investigation of Gates in the summer of 1991. This investigation was substantially completed by September 3, 1991, at which time Independent Counsel determined that Gates' Iran/contra

activities and testimony did not warrant prosecution.¹

Gates and the Diversion

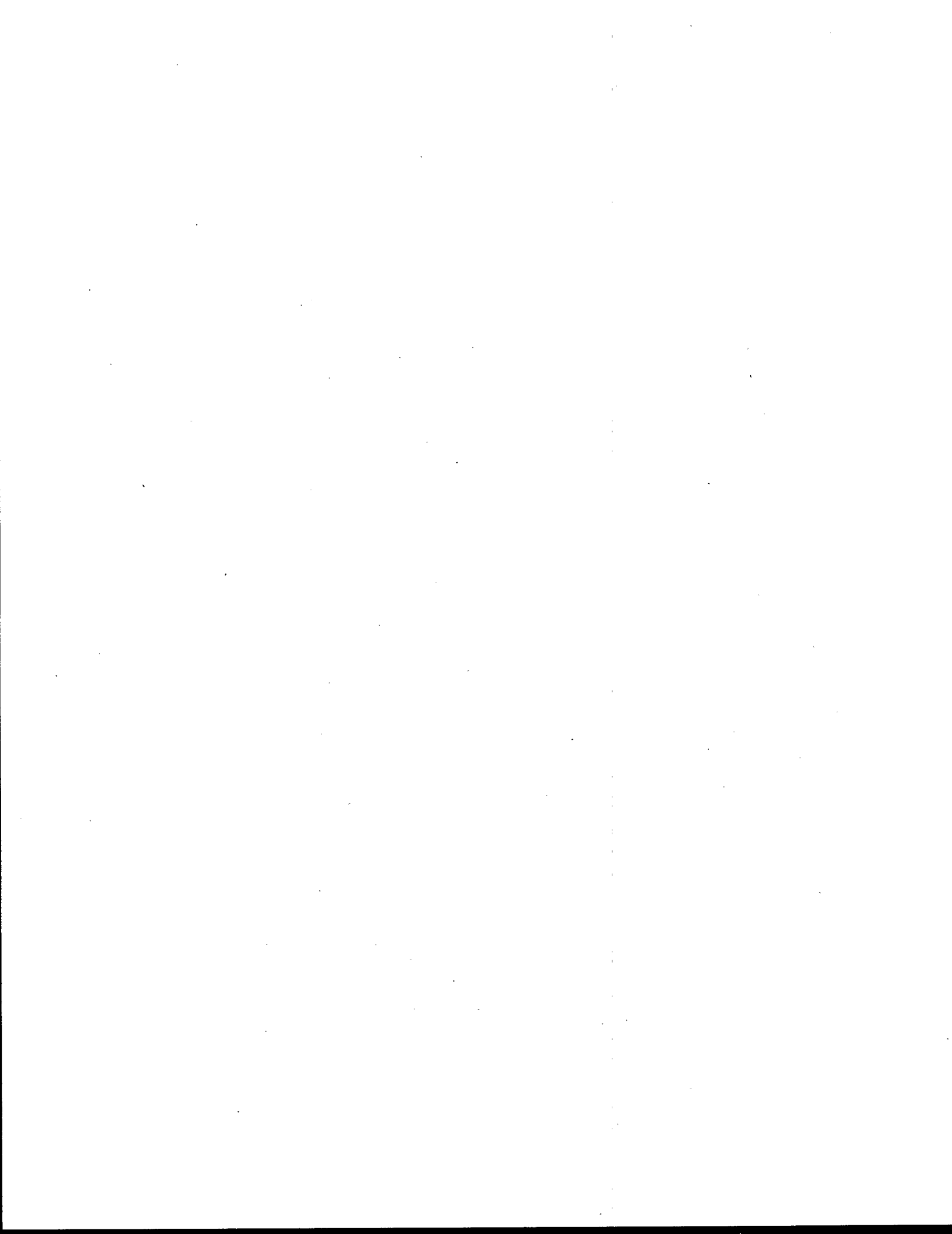
Gates consistently testified that he first heard on October 1, 1986, from the national intelligence officer who was closest to the Iran initiative, Charles E. Allen, that proceeds from the Iran arms sales may have been diverted to support the contras.² Other evidence proves, however, that Gates received a report on the diversion during the summer of 1986 from DDI Richard Kerr. The issue was whether Independent Counsel could prove beyond a reasonable doubt that Gates was deliberately not telling the truth when he later claimed not to have remembered any reference to the diversion before meeting with Allen in October.

Allen did not personally convey to Gates his concerns about the diversion until October 1, 1986.³ Allen testified, however, that he became worried during the summer of 1986 that the

¹ Independent Counsel made this decision subject to developments that could have warranted reopening his inquiry, including testimony by Clair E. George, the CIA's former deputy director for operations. At the time Independent Counsel reached this decision, the possibility remained that George could have provided information warranting reconsideration of Gates's status in the investigation. George refused to cooperate with Independent Counsel and was indicted on September 19, 1991. George subpoenaed Gates to testify as a defense witness at George's first trial in the summer of 1992, but Gates was never called.

² See, for example, Gates, Grand Jury, 5/1/91, p. 135 ("Q. Do you recall that in this time frame also you became initially—well, let me not characterize it—you became aware of what is now referred to as the diversion.[sic] A. Yes. I had a meeting with the NIO, the national intelligence officer, Charlie Allen, on the 1st of October."); Gates, SSCI Confirmation Hearing, 2/17-18/87, p. 13 (response to written interrogatory about his knowledge of the diversion).

³ Allen believed, however, that he sent a memorandum to Gates discussing, among other things, how much money North needed to pay Manucher Ghorbanifar from the Iran initiative. (Memorandum from Allen to the DCI, Subject: American Hostages, 11/10/86, ER 19739; Allen, Grand Jury, 1/4/88, pp. 19-21.) Independent Counsel was unable to corroborate Allen's testimony.



Iran initiative would be derailed by a pricing impasse that developed after former National Security Adviser Robert C. McFarlane failed in his attempt to secure release of the hostages during his trip to Tehran in May 1986. Lt. Col. Oliver L. North of the NSC staff had inflated the price to the Iranians for HAWK missile spare parts that were to be delivered at the Tehran meeting by a multiple of 3.7. Manucher Ghorbanifar, who brokered the parts sale, added a 41% markup to North's price of \$15 million. With another increase added by Ghorbanifar during the Tehran meeting, the Iranians were charged a total of \$24.5 million for HAWK spare parts priced by the Defense Department at \$3.6 million.⁴

In late June 1986, Mohsen Kargarlu, Ghorbanifar's channel to the Iranian government, informed the CIA through Agency annuitant George Cave that the Iranians had evidence that they were being drastically overcharged for HAWK missile spare parts. Kargarlu asked the Americans to lower the price. Led by North, the Americans first attempted to blame Ghorbanifar for the overcharges. When blaming Ghorbanifar failed to break the impasse in U.S.-Iran talks, North sought to convince the Iranians that the pricing was fair, and attempted to provide the Iranians with falsified pricing documents.⁵

A frightened and angry Ghorbanifar finally called Allen in late August 1986 to complain that the situation had become unbearable. He told Allen that he had borrowed \$15 million to finance the HAWK parts transactions, and that he was now being pursued by his creditors for repayment. Ghorbanifar insisted that it was not his markup, but the U.S. Government's, that was responsible for the pricing impasse. Ghorbanifar then pleaded with Allen to do something to resolve the issue. Allen told Ghorbanifar that he would bring the matter to North's attention.⁶

By this time, Allen had concluded that something was deeply wrong with the Iran initiative.⁷

⁴ Allen, Grand Jury, 8/9/91, pp. 100-02.

⁵ Cave, Grand Jury, 8/30/91, pp. 94-99; Allen, Select Committees Deposition, 6/29/87, pp. 534-40.

⁶ Allen, Grand Jury, 8/9/91, pp. 110-13.

⁷ *Ibid.*, pp. 113-15.

I had begun to think along those lines, after the 15th of August 1986, when it was clear that with White House support, Major General Secord and Mr. Hakim had established a new link or

Allen related his concerns to Cave, Duane R. Clarridge, a senior officer in the CIA's Directorate of Operations, and North. North told Allen not to believe Ghorbanifar because he was a liar. Instead, North insisted that Allen stick to the story that gathering the HAWK spares was expensive and to not break ranks with other U.S. officials on the pricing cover story.⁸

Having received no satisfaction from North or Clarridge, Allen brought his concerns to Richard Kerr, who was DDI and Allen's immediate superior. Kerr's deputy, John Helgerson, joined their meeting. Allen testified:

I went through what was occurring. I brought Mr. Kerr up to date on the initiative. I met with him occasionally to brief him orally on the White House effort and the Agency support. He had asked to be kept informed when I had something useful to say, so I worked my way through the current problem—the fact that after the failure of the McFarlane trip to Tehran, there had been a hiatus and efforts had been made to move this process along; but the Iranians had begun to complain very strongly about the price being charged.

Then I went through the rationale of why I believed that the United States was charging excessive costs to the Iranian government for the arms and that profits from

a new channel into the government of Iran. It was clear that they were dealing with Hashem Rafsanjani, Ali Hashem Rafsanjani, who was a nephew, I believe, of the current President Rafsanjani.

It was clear to me that Mr. Hakim and Major General Secord were moving to take over the control of the operation; that they were moving to exclude Mr. Ghorbanifar—that was very clear. I was very much aware that Mr. Hakim by that time and Mr. Secord were involved in other matters, relating to the contras in Central America.

It appeared to me that Mr. Ghorbanifar's call was sort of the final indicator that something was deeply awry—that the problem was not Mr. Ghorbanifar; the problem was the operation being directed by U.S. officials. And I then came to the analytic judgment—based on all these indications that money was being diverted from the profits from the sale of arms to Iran to the contras in Central America.

I did not have hard proof of this. In fact, I had no direct evidence in writing from anyone. It was simply aggregating a series of indicators into a conclusion. And at that point it was at that time or shortly thereafter, I recall walking out from the building to my car late in the evening and thinking very deeply about this—thinking of the fact that two operations were probably being combined—that the lives of the hostages were being actually endangered by such a reckless venture; [and I raised the point with Mr. Cave at the office.

⁸ *Ibid.*, p. 115.



the sale of the arms were being diverted to Central America.

I made it clear I did not have direct evidence, but that when you put the indicators together, it sounded as if two separate problems or projects were being mixed together. And I pointed out to him that it made no sense to me and in fact could endanger the hostages in Lebanon.

Allen believed he also told Kerr and Helgerson that retired U.S. Air Force Major General Richard V. Secord and Albert Hakim were involved in both the Iran arms sales and the NSC's contra project. Allen related the markups alleged by Ghorbaniyar, and described intelligence reports that indicated that the Iranians were upset by the high prices.⁹

Allen testified that this information made Kerr visibly upset. Kerr told Allen to "stay on top of the issue" and to "keep him advised of any new developments." According to Allen, Kerr pulled him aside later that same day and expressed "deep concern." Kerr believed that if Allen's story were true, the arms sales ultimately would be exposed.¹⁰

In various interviews, Kerr admitted Allen told him of his suspicions. Kerr also corroborated Allen that Helgerson was present at the meeting. Kerr's account of his reaction to Allen's information, however, differed from Allen's. Kerr said that, as a general matter, he did not find Allen credible—that Allen was "a person who started and put out his own fires"—and therefore he did not take his allegations as seriously as Allen said he did. Kerr had Helgerson there, he stated, to calm Allen down.¹¹

Still, Kerr admitted that he took Allen's concerns seriously enough to bring them to Gates, who was Kerr's immediate superior. Kerr acknowledged this meeting in two interviews with the CIA's inspector general, and in an interview with the Select Committees. Kerr stated that he did not remember when this meeting took place, dating it some time between May and

September 1986.¹² In an interview with the inspector general on December 4, 1986, Kerr stated that Gates's response was, "God only knows what Ollie is up to." A memorandum for the record written by a CIA attorney reporting Kerr's interview with the Select Committees recites that Kerr testified that when he informed Gates of Allen's concerns, "Gates responded that he was aware that rumors were circulating that profits were being made on the sales of arms to Iran and that money from the arms sales was being made available to the Contras."¹³

Kerr told Independent Counsel that he did not recall Gates referring to other rumors of a diversion at this meeting.¹⁴ The Select Committees' report of the interview did not contain the statement that Gates was aware of "rumors" of a diversion, but it did state that Gates told Kerr to "keep him informed." Accordingly, the evidence was clear that Gates's statements concerning his initial awareness of the diversion were wrong: Kerr brought him the information from Allen over a month earlier than Gates admitted. This would have been material because it suggested that the CIA continued to support North's activities without informing North's superiors or investigating. By October, when Gates claimed he first remembered hearing of the diversion, Casey ordered an inquiry and later made a report to Poindexter; but, by then, the Hasenfus aircraft had been shot down and Casey and Gates were beginning to cover.

Gates's defense was that he did not recall the Kerr meeting.¹⁵ To say the least, this was

¹² Gates's calendar shows frequent meetings with Kerr in late August 1986, but this is inconclusive evidence of when the meeting occurred. Dating the meeting is made even harder by the close working and personal relationship between Kerr and Gates. According to Diane Edwards, Gates's secretary, Kerr was in regular contact with Gates and was among a handful of people who would see Gates without an appointment. (Edwards, FBI 302, 8/23/91, pp. 1-2.)

¹³ Working Notes, Kerr, CIA IG Interview, 12/4/86; Memorandum from Pearlina to the Record, Subject: Interview of Dick Kerr, 9/10/87, OCA 87-3899. Pearlina stood by his notes of Kerr's Select Committees' interview. (Pearlina, FBI 302, 9/12/91, p. 5.) Helgerson told the OIC that Kerr informed him shortly after speaking with Gates of their conversation. (Helgerson, FBI 302, 9/5/91, p. 5.)

¹⁴ Kerr, FBI 302, 7/31/91, p. 5. Kerr admitted that he and Gates had reviewed the incident several times since. (Ibid.)

¹⁵ In testimony he gave before the Select Committees' report was issued, Gates made no reference to a meeting with Kerr. In two later Grand Jury appearances, however, Gates acknowledged the conflict between his recollection of events and Kerr's, but he insisted that he

⁹ Ibid., pp. 117-18.

¹⁰ Ibid., pp. 118-19.

¹¹ Kerr, FBI 302, 7/31/91, pp. 4-5; see also Helgerson, FBI 302, 9/5/91, pp. 4-5.

disquieting. He had been told by a very senior officer that two of President Reagan's personal priorities were in danger—not something an ambitious deputy director of central intelligence would likely forget. Allen was acting as a whistle-blower in a difficult situation. His concern was for the safety of the hostages and the success of the efforts of the President. His information suggested serious malfeasance by Government officials involved in a clandestine and highly sensitive operation. Even though Gates may have believed Allen to be excessively concerned, could such an expression of concern be forgotten, particularly after it had been corroborated within a few weeks? Logically, Gates could ignore or forget the Allen report only if he already knew of the diversion and he knew that Casey and Poindexter knew of the diversion. Gates also was on the distribution list for highly reliable intelligence that should have informed him of the pricing dispute among Kangarlu, Ghorbanifar, and the U.S. Government, although it did not refer specifically to any diversion of funds. Gates claimed that he rarely reviewed the intelligence.¹⁶ North testified that he did not discuss the diversion with Gates or in Gates's presence. Gates also never met with Richard Secord, whom Gates was aware of only as a "private benefactor" (the CIA's term for non-Government donors to the contras) by July 1986.¹⁷

Notwithstanding Independent Counsel's disbelief of Gates, Independent Counsel was not confident that Kerr's testimony, without the support of another witness to his conversation with Gates, would be enough to charge Gates with perjury or false statements for his testimony concerning the timing of his knowledge of the diversion.

did not recall the meeting. (Gates, Grand Jury, 2/19/88, pp. 22-23; Gates, Grand Jury, 5/1/91, p. 140.)

¹⁶Gates, Grand Jury, 2/19/88, pp. 13-14 (found intelligence "confusing," so he stopped reading it); Gates, Grand Jury, 5/1/91, p. 138 (intelligence showed "a couple of Iranian arms dealers . . . lying to each other," so he stopped reading it).

¹⁷North, *North Trial Testimony*, 4/12/89, pp. 7552-55; Gates, Grand Jury, 5/1/91, pp. 71-72, 87-88. Gates admitted that he and others were concerned about Secord's involvement in the Iran initiative because of Secord's prior contacts with unsavory individuals, but he did not link these concerns with the diversion. (Gates, SSCI Testimony, 12/4/86, pp. 80-85; Gates, Select Committees Deposition, 7/31/87, p. 13.)

Gates and North's Contra Activities

Gates maintained consistently that he was unaware that North had an operational role in supporting the contras. He testified that he believed that North's activities were limited to putting contra leaders in contact with wealthy American donors, and to giving the contras political advice.¹⁸ While sufficient circumstantial evidence exists to question the accuracy of these statements, it did not adequately establish that Gates knowingly was untruthful about his knowledge of North's activities.

Gates first met North at meetings of the Crisis Pre-Planning Group (CPPG) beginning in 1982, when Gates was deputy director of intelligence. Gates claimed that his contacts as DDI with North were almost exclusively in the CPPG context, apart from meetings on intelligence assignments. Other than these meetings, Gates said that he had little to do with North. He was nonetheless aware of allegations that North was involved on some level with contra support.¹⁹

Notwithstanding his claims, Gates was aware of information that caused others to question the legality of North's activities. The most obvious source of concern should have been Allen's allegations, discussed above, about North's corruption of the Iran arms sales to support the contras. But other evidence—available before October 1, 1986—should have alerted Gates to North's contra support role.

¹⁸Gates, Grand Jury, 5/1/91, pp. 59-60; Gates, Grand Jury, 2/10/88, pp. 74-75; Gates, Select Committees Deposition, 7/31/87, p. 30; Gates, Grand Jury, 6/26/87, p. 36.

¹⁹Gates, SSCI Testimony, 12/4/86, pp. 69-71; Gates, FBI 302, 5/15/87, p. 1. One disturbing evolution in Gates's description of his knowledge is the degree to which he relied on McFarlane's false assurances to Congress in 1985 that North was not involved in contra resupply. Before the Select Committees, Gates claimed that the CIA, as a whole, was aware of McFarlane's statements, and that the Agency relied on them:

I might add, you know, there's been a great deal of attention drawn to the letter that McFarlane sent to Mr. Hamilton avowing that whatever North was doing was legal and proper. The House Intelligence Committee were not the only ones who read that letter and were not the only ones who believed it. So there was a predisposition that while we didn't know or certainly from my standpoint, I think from the standpoint of others as well, that while we didn't know entirely what North was up to, the presumption was that it was proper because of that letter.

But when the Select Committees asked if he specifically was aware of McFarlane's representations at the time McFarlane made them, Gates was quick to deny that he was. (Gates, Select Committees Deposition, 7/31/87, pp. 32-33.) In his 1991 Grand Jury testimony, Gates reversed his position. (Gates, Grand Jury, 5/1/91, p. 82.)



Gates became deputy director of central intelligence on April 18, 1986. As DDCI, Gates had at least two sources of information about North's activities: CIA personnel—particularly Alan D. Fiers Jr.—who had duties relating to Central America, and his regular contacts with National Security Adviser John M. Poindexter and others at the NSC.

The Cannistraro Question

In the spring and summer of 1986, Gates became involved in a debate over what role Vincent Cannistraro, a CIA officer detailed to the NSC, should play in the \$100 million contra program that was expected to take effect in October 1986. There was concern that if Cannistraro replaced North, the CIA would be drawn into North's contra supply activities. Gates discussed Cannistraro's assignment with a number of CIA and NSC personnel, including Fiers, Clair E. George, and Poindexter. Gates met with Cannistraro himself in an attempt to resolve the situation. OIC's inquiry focused on whether Gates, in the course of these discussions, learned about North's role in contra operations.

By the time Gates became DDCI, Fiers was chief of the CIA's Central American Task Force (CATF). Fiers ran the CIA's support for the Nicaraguan contras and planned for the day when the CIA would again be allowed to provide lethal support to the insurgents. Fiers did not readily share information about his unit's operations in Nicaragua. This had led to complaints with the CIA's intelligence analysis directorate.²⁰

According to both Fiers and Gates, Gates's role in the contra program increased significantly once he became DDCI. Fiers testified

²⁰One of the protesters was Robert Vickers, the CIA's national intelligence officer for Latin America from July 1984 to November 1987. Vickers told Gates that Fiers was not keeping him informed about the contras. (Vickers, FBI 302, 4/28/87, p. 4; Kerr, FBI 302, 7/31/91, p. 6.) Vickers did not remember this meeting with Gates in his most recent interview. (Vickers, FBI 302, 5/15/91, p. 5.) Vickers also complained to Cannistraro about being cut out of the new interagency group on Nicaragua, and asked Cannistraro to assist him in getting into the group. Cannistraro brought up Vickers's concern with Gates in a meeting at Gates's office. Cannistraro told Gates that Vickers "was very knowledgeable and was a real student of Central America," and he recommended that Vickers be included in meetings of the new interagency group. (Cannistraro, FBI 302, 7/24/91, p. 9.) A PROFs note from Cannistraro to Rodney McDaniel, Executive Secretary of the NSC, corroborates Cannistraro's efforts to get Vickers involved and Cannistraro's meeting with Gates. (PROFs Note from Cannistraro to McDaniel, 7/21/86, AKW 022235.)

Gates became "intricately involved" in developing policy and coordinating interagency work on the contras. Fiers dealt with Gates on requests from the NSC and on structural discussions with other Executive Branch agencies about the contra program. Fiers kept Gates informed "generally, on our state of planning and the nature of our operations." Fiers met with Gates regularly and weekly.²¹

Fiers testified that he did not lay out to Gates his extensive knowledge about North's activities.²² From two events, however, Fiers concluded that Gates too was aware of North's operational role with the contras. The first incident involved Cannistraro, who had been Fiers's predecessor as chief of CATF.

Cannistraro, then detailed to the NSC, was nominally in charge of monitoring all U.S. covert-action programs. By June 1986, North's operational activities caused Cannistraro concern.²³ In mid-1986, media reports repeated earlier assertions that North was linked to contra military aid. As an important House vote on renewed contra aid approached, on June 24, 1986, a resolution of inquiry was introduced in the House to inquire about North's activities. On June 25, after the House approved a \$100 million military and humanitarian aid package, Representatives Lee Hamilton and Dante Fascell wrote the President for comment on the resolution of inquiry; that night, CBS News ran a program that expressly linked North to the private contra-aid network.

On June 26, Cannistraro suggested in a computer note to Poindexter that the new contra-aid program should be a "regularized C[over]t] A[ction] program which would normally fall under my responsibility." Poindexter agreed in a computer note sent to NSC Executive Secretary Rodney McDaniel that same day:

Yes, I would like to regularize it. The Vince-Ollie relationship would be the same as between Vince and Howard [Teicher, another NSC staffer] on Afghanistan. Ollie will have mixed reactions. He has wanted CIA to get back on the management of

²¹Fiers, Grand Jury, 8/14/91, pp. 44-45; Gates, Grand Jury, 5/1/91, pp. 12-14.

²²Fiers's knowledge of North's contra-resupply activities is discussed more fully in the Fiers chapter.

²³Cannistraro, FBI 302, 9/18/90, p. 2; Cannistraro, FBI 302, 7/24/91, p. 9.



the problem and we need to lower Ollie's visibility on the issue. Talk to him about it and I will follow up when I get back.²⁴

Fiers recalled Cannistraro's move to take the contra program away from North, as well as Poindexter's concerns about North's program. The question of who would run the anticipated contra-aid program was important to Fiers and the CIA. Fiers had been planning the CIA's program "in earnest." According to Fiers, Gates was intimately involved in structuring the new program, both within the CIA and the Executive Branch as a whole. Gates admitted he was aware that Poindexter had been contemplating changes in who oversaw contra issues at the NSC.²⁵

In the midst of the struggle over who would run the contra-aid program, Cannistraro visited Gates at his office. Cannistraro told Independent Counsel that he came to express his desire to return to the CIA's Directorate of Operations (DO).²⁶ Gates promised to urge the directorate to take Cannistraro back. But soon Cannistraro's future became an item on the agenda for one of Gates' weekly meetings with Poindexter. On July 10, 1986, Paul Kinsinger, an aide to Gates, sent Gates a memorandum that stated:

Vince Cannistraro called to say that Poindexter wanted to discuss how we are going to coordinate the Nicaragua program. Attached is a short memo to you from the Director, you may recall, that lays out the Director's views.

Vince also said that Poindexter would want to know whether Ollie North should be involved. Peggy [Donnelly, a CIA officer assigned to the DCI-DDCI executive offices] checked with the DO and they say yes.²⁷

The DO officer mentioned in Kinsinger's memo was Fiers. Fiers recalled that he specifi-

²⁴ Cannistraro, FBI 302, 9/18/90, p. 3; PROFs Note from Cannistraro to McDaniel, 6/26/86, AKW 019032; PROFs Note from Poindexter to McDaniel, 6/26/86, AKW 021436.

²⁵ Fiers, Grand Jury, 8/14/91, pp. 53-57; Gates, FBI 302, 5/15/87, pp. 4-5; Gates, Grand Jury, 5/1/91, pp. 103-04.

²⁶ Cannistraro claimed that he had long-standing differences with DO chief Clair George, which is why Cannistraro went to Gates. (Cannistraro, FBI-302, 7/24/91, p. 6; see also Gates, FBI 302, 5/15/87, p. 4; Gates, Grand Jury, 5/1/91, pp. 83-84.)

²⁷ Note for ADCI, Subject: Late Item for Poindexter Meeting, 7/10/86, ER 27199-206.

cally talked about Cannistraro's duties with Gates. Fiers was concerned that having Cannistraro in the management of the new program would bring a CIA officer "into the proximity of operations that I knew to go on, that were someplace we didn't want CIA officers to be." Fiers recalled voicing this concern not only to Gates, but to George and Casey as well.²⁸

Fiers made it clear in several meetings in Gates's office that he wanted North to stay involved in contra aid—and have Cannistraro kept out. Fiers recalled telling Gates:

I just think I said, if Vince were to take over the Central American account, he can't be doing the same thing that Ollie is doing with the private sector people in lining up support for the resistance. That crosses over the Boland Amendment, and it's just someplace that we don't want to be. We've got to keep Vince away from that. And, I think those probably were my exact words, or very similar to that.

Fiers testified that Gates "understood me. We all understood that to be the case, and we were going to have to keep Vince away from that."²⁹

On July 10, 1986, Gates raised the Cannistraro issue with Poindexter. Gates wrote after their meeting:

I followed up on Vince Cannistraro's assignment. Poindexter clearly wants to keep Vince indefinitely and while I told him that Clair did not have to have a final answer before the end of August, his reaction strongly suggested to me that he will keep Vince there. I also repeated our concern that *should Vince take over the Central American account, that he should have nothing to do as a CIA employee with the private sector people Ollie North had been dealing with in support of the Contras.*

Cannistraro remained at the NSC,³⁰ and was not transferred.

²⁸ Fiers, Grand Jury, 8/14/91, pp. 58-59.

²⁹ Ibid., pp. 59-60.

³⁰ Memorandum from Gates to the Record, Subject: Meeting with Adm. Poindexter, 7/11/86, ER 27195-97 (emphasis added); Gates, FBI 302, 5/15/87, pp. 4-5. See also Poindexter, Select Committees Deposi-



Gates's explanation of these events was that he wanted to keep Cannistraro from becoming entangled with the contras for political reasons—and not because he was concerned about North. Gates was concerned, he said, about Congress finding a CIA employee anywhere close to the situation. Gates claimed he had not considered the legality or nature of what North was doing on behalf of the contras: "I had no concerns—I had no reason to have concerns based on what was available to me about North's contacts with the private sector people, but I didn't think a CIA person should do it."³¹

Gates acknowledged that he might have raised the Cannistraro issue with Fiers, but he did not recall it. He did not recall any conversations with Fiers and he claimed not to recall any recommendation from Fiers one way or the other.³²

Given the accusations swirling about North's support of the contra rebels, and the prospect of a formal Congressional inquiry into North's actions, Gates must have been concerned about the nature of his activities as a threat to the planned resumption of support to the CIA. It was, however, also politically wise to keep Cannistraro away from any activities that resembled North's. Independent Counsel did not believe that provable evidence of Gates's awareness of North's operational activities would sustain a prosecution for his denials to the Select Committees or to OIC.

Sale of Enterprise Assets

North attempted to sell aircraft and a vessel, the *Erria*, that were owned by the Enterprise to the CIA. The proposed sales were discussed in Gates's presence at meetings with Poindexter. Gates also spoke about the aircraft with Fiers,

tion, 5/2/87, pp. 200–02 (giving his reasons for easing North out of the contra effort, and North's reluctance to leave).

³¹Gates, Grand Jury, 5/1/91, pp. 79–83, 85. The information that Gates claimed to have about North consisted of "rumors" from various Government officials that North had put contra leaders in touch with Secord and retired U.S. Army Major General John K. Singlaub. Gates testified that at the time he did not know that North had "hands-on" involvement with contra resupply. (Ibid., pp. 86–89.)

³²Ibid., pp. 110–11. Fiers said that a "note-taker" usually attended his meetings with Gates. This note-taker was Kinsinger. Fiers remembers telling Kinsinger—whom Fiers did not remember by name—occasionally not to write down things such as disparaging comments or other matters because of their sensitivity. Fiers also would ask Kinsinger to leave the room for matters that he wanted to discuss privately with Gates. (Fiers, Grand Jury, 8/14/91, pp. 45–46.) Kinsinger kept note of his notes for the period that he served as Gates's aide. (Kinsinger, FBI 302, 7/25/91, p. 8.)

who discouraged their purchase. These discussions must have provided some additional knowledge about North's role in contra resupply.

The *Erria* had carried munitions to Central America for the contras.³³ Poindexter, Gates and Casey discussed the *Erria* at one of their weekly meetings in May 1986. Memoranda prepared for that meeting associated North with the *Erria*. Cannistraro recalled that discussion of the ship at a Poindexter-Gates meeting suggested Gates knew the *Erria* was used in support of North's contra operation.³⁴

At a later meeting, Gates and Poindexter discussed North's proposal that the CIA buy the Enterprise's aircraft. In a computer note to Poindexter dated July 24, 1986, North complained that the CIA was unwilling to purchase the Enterprise assets and urged Poindexter to ask Casey to reconsider. Poindexter responded that he *did* "tell Gates that the private effort should be phased out. Please tell Casey about this. I agree with you." Poindexter later elaborated that he had told Gates that the Enterprise's assets were available for purchase, and that Gates said he would check on the matter.³⁵

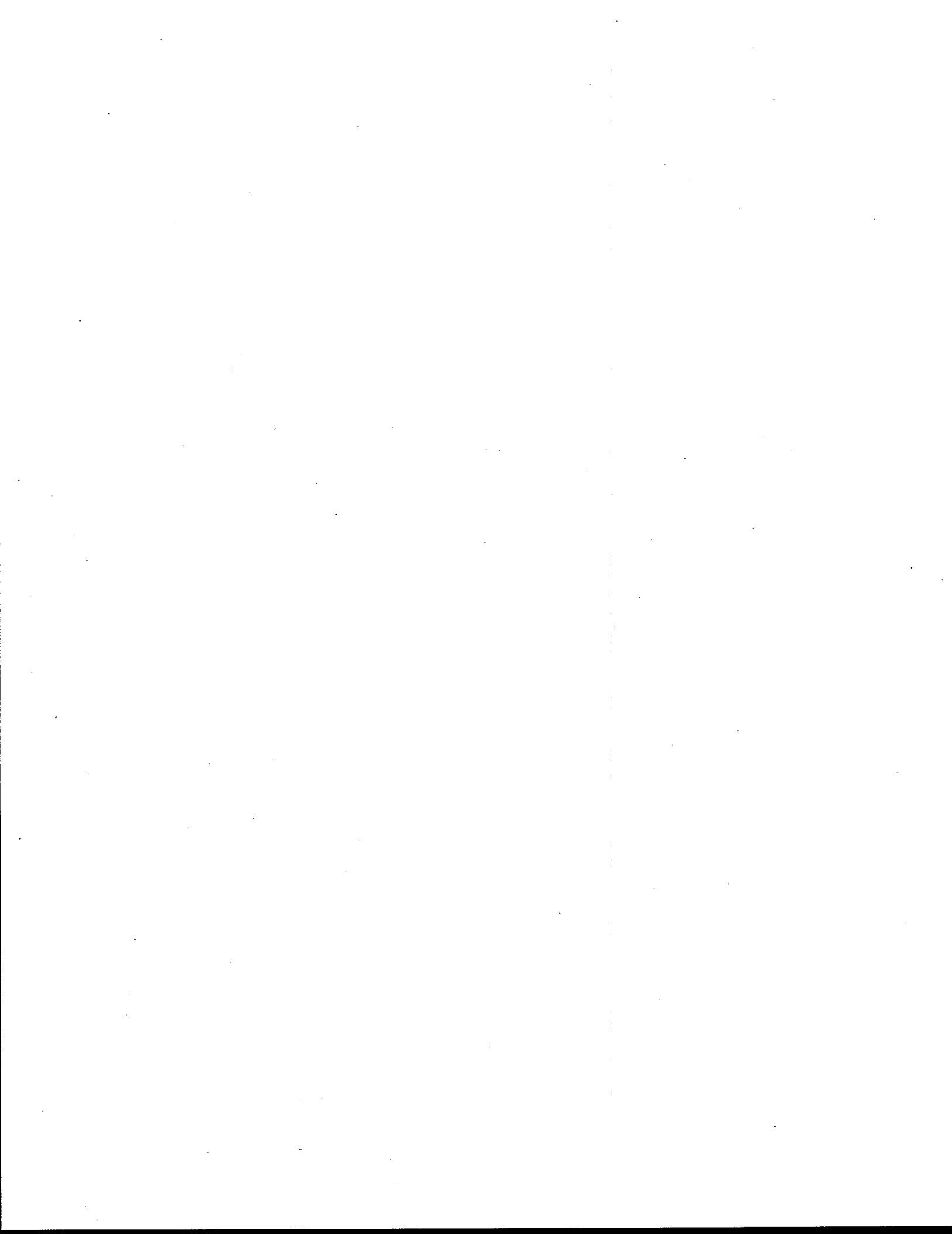
North's calendar and pocket cards show that North scheduled a meeting with Gates for July 29, 1986, three days later. Gates's calendar also shows a meeting with North on July 29.³⁶ About this time, Gates approached Fiers and asked why the Central American Task Force would not purchase North's, or "the private

³³North, North Trial Testimony, 4/7/89, pp. 6883–84. North approached several CIA officers with his proposal. North asked Cannistraro to convince the CIA to purchase the ship as a floating broadcast platform. Cannistraro found out that CIA officers had considered the matter and had declined North's offer because of the ship's association with Thomas Clines. (Cannistraro, Grand Jury, 6/15/87, pp. 53–65; see also Twetten, Select Committees Deposition, 4/22/87, pp. 181–82; Haskell, FBI 302, 7/6–7/7/87, p. 10.)

³⁴Memorandum from Cannistraro to Poindexter, Subject: Agenda for Your Weekly Meeting . . . , 5/14/86, AKW 045227–28; Memorandum, Item . . . Poindexter May Raise With The DCI at their 8 May Meeting, 5/8/86, ER 143–5 91–0041; Gates 1986 Appointment Book, 5/15/86; DCI Schedule, 5/15/86, ER 598; Kinsinger, FBI 302, 7/25/91, p. 9; Cannistraro, FBI 302, 7/24/91, p. 10. See also Poindexter, Select Committees Deposition, 5/2/87, pp. 221–22 (recounting discussions with the CIA about its purchasing the *Erria*).

³⁵See PROF's Note from North to Poindexter, 7/24/86, AKW 021735; PROF's Note from Poindexter to North, 7/26/86, AKW 021732; Poindexter, Select Committees Testimony, 5/2/87, pp. 187–88, 228.

³⁶North Schedule Card, 7/29/86, AKW 002640; Gates 1986 Appointment Book (Doc. No. 258). When asked about this meeting by SSCI in his second confirmation hearings, Gates could not recall the meeting. (SSCI Confirmation Nomination of Robert M. Gates to be Director of Central Intelligence, Sen. Exec. Rpt. No. 102–19, 102d Cong., 1st Sess., p. 80 (Oct. 24, 1991), 10/19/91, p. 85.)



benefactor's," aircraft. According to Fiers, Gates accepted Fiers' explanation that the aircraft were in poor condition and unduly risky for the CIA. Fiers also "vaguely" recalled discussing "phasing out the private Contra aid effort" with Gates in July 1986. Both men agreed that the private effort was a political liability for the Agency. From their discussions, Fiers—like Cannistraro—concluded that Gates was aware that "North was running a private supply operation."³⁷

Gates denied discussing phasing out the private resupply effort with Poindexter. Asked about Poindexter's message to North, Gates testified that he examined his records upon reading the message and could find no evidence that such a meeting with Poindexter occurred. Gates claimed, "If Poindexter made a comment to me like that, it would have been in the context of once the authorized program is approved there would be no point in having any of these private benefactors any longer." Neither did Gates recall meeting with North about the *Erria* during this time.³⁸

The evidence established that Gates was exposed to information about North's connections to the private resupply operation that would have raised concern in the minds of most reasonable persons about the propriety of a Government officer having such an operational role. Fiers and Cannistraro believed that Gates was aware of North's operational role. The question was whether there was proof beyond a reasonable doubt that Gates deliberately lied in denying knowledge of North's operational activities. A case would have depended on the testimony of Poindexter. Fiers would not testify that he supplied Gates with the details of North's activities. In the end, Independent Counsel concluded that the question was too close to justify the commitment of resources. There were stronger, equally important cases to be tried.

Obstruction of the Hasenfus Inquiries

There was conclusive evidence that in October 1986, following the Hasenfus shootdown, Clair George and Alan Fiers obstructed two congress-

sional inquiries.³⁹ Gates attended meetings where the CIA's response to these inquiries was discussed. None of the evidence, however, links Gates to any specific act of obstruction.

The background for Congress's inquiries into the Hasenfus shootdown is discussed in the Fiers and George chapters. By October 9, 1986, the Senate Committee on Foreign Relations (SCFR) had set a hearing on the shootdown for October 10, 1986, and the House of Representatives Permanent Select Committee on Intelligence (HPSCI) had set a hearing for October 14, 1986. Gates's main concern during this period was convincing Congress that the CIA had sponsored no resupply flights. He appeared before SSCI on October 8, 1986, and gave the committee brief biographies of the pilots on the downed plane. He responded to Senator Cohen when asked whether the plane was owned by a CIA proprietary:

No, sir. We didn't have anything to do with that. And while we know what is going in—going on with the Contras, obviously as you indicate, by virtue of what we come up here and brief, I will tell you that I know from personal experience we have, I think, conscientiously tried to avoid knowing what is going on in terms of any of this private funding, and tried to stay away from it. Somebody will say something about Singlaub or something like, we will say I don't want to hear anything about it.⁴⁰

To the extent that Gates spoke for others in the CIA, this was wrong. It was true that the Hasenfus plane was not owned by a CIA proprietary. But as set forth in the Fiers, George, and Fernandez chapters, several individual CIA officers had not stayed away from "private-benefactor" activities. There was no evidence, however, that Gates knew this as early as October 8, 1986, although he did know by then of the concern that North and Secord were diverting funds from the Iran arms sales to the contras.⁴¹

³⁹ See George and Fiers chapters.

⁴⁰ Gates, SSCI Testimony, 10/8/86, p. 9.

⁴¹ Gates was informed by Allen about the diversion, North, and Secord on October 1, 1986, and met with Allen and Casey about them on October 7.

³⁷ Fiers, Grand Jury, 8/14/91, pp. 68–69; Fiers, FBI 302, 8/1/91, pp. 14, 16. See also, Sen. Exec. Rpt. No. 102–19, p. 80.

³⁸ Gates, Grand Jury, 2/10/88, pp. 76–77.



The day after his SSCI testimony Gates double-checked his statements with a number of people. He met with Fiers and George at 10:10 a.m. on October 9 and was told "that there had been no contact between—that the Agency wasn't involved in the Hasenfus matter at all." Gates then had lunch with Casey and North. North had just returned from negotiations in Frankfurt with the "Second Channel" to the Iranian government. North briefed Gates and Casey on the progress of the negotiations. The discussion then turned to the contras. North testified at trial and before the Grand Jury that during this luncheon, Casey told him that North's Iran and contra operations were unraveling, and that he should begin to clean up both of them. North specifically recalled being told by Casey about allegations by Roy Furmark of a diversion; he did not recall telling Gates about the diversion or going into detail about the nature of his operations. North also did not recall whether Gates was there when Casey told North to clean up his operation.⁴²

In his testimony about the lunch, Gates stressed his attempt to get North to confirm that the CIA was not involved with the Hasenfus crash. Gates claimed that he was not invited to the lunch, and that he "crashed the lunch" because he wanted to speak with North. Gates said that Casey discussed the Furmark allegations with North and told him that the situation had to be straightened out. Gates remembered no instruction from Casey to North to start cleaning up operations, but did recall asking North directly whether any CIA personnel had been involved in the resupply network. Gates said that North told him that the CIA was "absolutely clean." North made a "cryptic comment" about Swiss bank accounts, which Gates claimed not to have understood. Gates stated that he then left Casey's office for ten minutes, and returned to ask Casey alone about North's comment about Swiss accounts. Casey

⁴²DDCI Appointments—Thursday, 10/9/86, AKY 006296; Gates, Grand Jury, 5/1/91, pp. 176-77; Fiers, Grand Jury, 8/16/91, pp. 6-7; North, North Trial Testimony, 4/12/89, pp. 7552-57; North, Grand Jury, 3/8/91, pp. 30-32. Casey testified in December 1986 that the October 1986 luncheon included questions concerning a possible diversion. (Casey, HPSCI Testimony, 12/11/86, pp. 120-21; Casey, House Appropriations Subcommittee Testimony, 12/8/86, p. 102.)

seemed not to have picked up on the comment, and Gates dropped it.⁴³

Gates changed his story in only one significant way between his early testimony and his final Grand Jury appearance: He expressly added that he left Casey and North alone together during lunch.

Gates wrote an exculpatory memo the next day. Gates wrote:

North confirmed to the DCI and to me that, based on his knowledge of the private funding efforts for the Contras, CIA is completely clean on the question of any contacts with those organizing the funding and the operations. He affirmed that a clear separation had been maintained between the private efforts and CIA assets and individuals, including proprietaries.

Gates recorded North's purportedly exculpatory statement uncritically, even though he was by then clearly aware of the possible diversion of U.S. funds through the "private benefactors." Although, in testimony before SSCI, Gates admitted that his concerns about Allen's allegations were behind the questioning of North, he did not ask North whether a diversion had occurred. He was interested only in eliciting statements protective of his Agency.⁴⁴

After his lunch with North and his post-lunch discussion with Casey, Gates met again with Casey and George at 1:45 p.m. on "Directorate Reporting." Casey then briefed congressional leaders about the downed aircraft. Casey and Gates then met with George, Fiers and the CIA's congressional affairs chief, David Gries. Gates, George and Gries stated that they did not recall what occurred at this meeting. Fiers recalled that the meeting concerned whether it would be Gates or George who testified on October 10 before SCFR. Fiers testified that he, Casey and George had decided earlier on October 9 that George was to testify. As Fiers recalled it, the later meeting was to give Gries the opportunity to argue in favor of Gates testifying. The content of the next day's briefing,

⁴³Gates, Grand Jury, 5/1/91, pp. 177-79; Gates, Grand Jury, 6/26/87, pp. 8-11; Gates, Select Committees Deposition, 7/31/87, pp. 23-29, 33-35; Gates, Grand Jury, 2/19/88, pp. 46-47; Gates, FBI 302, 5/15/87, p. 5. When confronted with Gates's account of the meeting, Casey did not dispute it. (Casey, HPSCI Testimony, 12/11/86, pp. 180-81.)

⁴⁴Memorandum from Gates to the Record, Subject: Lunch with Ollie North, 10/10/86, ER 24605; Gates, SSCI Testimony, 12/4/86, p. 20.



except for the categorical denial made in the CIA's opening statement, was not discussed.⁴⁵

The early evening meeting of Casey, Gates, George, Fiers, and Gries ended Gates's involvement with the preparation of the CIA's testimony concerning the Hasenfus crash. The only other evidence relating to Gates during this period was a meeting that took place in Casey's office around the time of George and Fiers's briefing of HPSCI on October 14, 1986. During this meeting, Fiers told George and Casey that the Hasenfus inquiries would not end until someone took responsibility for the private resupply flights. Fiers recommended that Secord take responsibility. George turned to Casey and said, "Bill, you know Secord has other problems," and the conversation ended soon after. Fiers had a vague recollection of Gates being present for part of the conversation, and then leaving the room. Fiers was uncertain if Gates heard his remarks about Secord.⁴⁶

At most, the evidence showed that Gates was in and around meetings where the content of George and Fiers's testimony was discussed, and that he participated in two briefings that helped lull congressional investigators into believing that the CIA was not involved in facilitating private resupply flights. The evidence shows further that Gates was aware of at least general information suggesting involvement by North and Secord with the contras, and that Gates did not disclose this information—or argue that it should be disclosed. For Gates, the CIA's task in October 1986 was to distance the CIA from the private operation, in part by locking North into statements that cleared the CIA of wrongdoing.⁴⁷

⁴⁵ George, Grand Jury, 4/5/91, pp. 72–73; Gates, Grand Jury, 5/1/91, pp. 197–98; Gries, FBI 302, 4/9/91, pp. 4–5; Fiers, Grand Jury, 8/16/91, pp. 19–20.

⁴⁶ *Ibid.*, pp. 40–43.

⁴⁷ Indeed, according to Allen, when Allen first discussed rumors of a diversion with Gates on October 1, 1986, Gates told Allen he

In the end, although Gates's actions suggested an officer who was more interested in shielding his institution from criticism and in shifting the blame to the NSC than in finding out the truth, there was insufficient evidence to charge Gates with a criminal endeavor to obstruct congressional investigations into the Hasenfus shutdown.

Gates and Casey's November 1986 Testimony

The events leading up to the preparation of false testimony by Director Casey in November 1986—preparations that Gates nominally oversaw—are set forth in a separate chapter of this Report. There was insufficient evidence that Gates committed a crime as he participated in the preparation of Casey's testimony, or that he was aware of critical facts indicating that some of the statements by Casey and others were false.

Conclusion

Independent Counsel found insufficient evidence to warrant charging Robert Gates with a crime for his role in the Iran/contra affair. Like those of many other Iran/contra figures, the statements of Gates often seemed scripted and less than candid. Nevertheless, given the complex nature of the activities and Gates's apparent lack of direct participation, a jury could find the evidence left a reasonable doubt that Gates either obstructed official inquiries or that his two demonstrably incorrect statements were deliberate lies.

"didn't want to hear about Central America" and "I've supported Ollie in other activities . . . but he's gone too far." (Allen, Grand Jury, 1/4/88, pp. 31–33.) See also Gates, SSCI Testimony, 12/4/86, pp. 18–19 (confirming that he told Allen that he "didn't want to hear anything about funding for the Contras").

