THE WHITE HOUSE

WASHINGTON

November 12, 1987

MEMORANDUM FOR ARTHUR B. CULVAHOUSE, JR.

FROM: ALAN CHARLES RAUL ACR

SUBJECT: Declassification of Report/House Minority: "Introduction"

This section of the Report is 42 pages long and arrived for declassification on November 11. The salient points are noted below:

P. 1 - "President Reagan and his staff made mistakes in the Iran/Contra Affair. It is important at the outset, however, to note that the President himself has already taken the hard step of acknowledging his mistakes and reacting precisely to correct what went wrong. He has directed the National Security Council staff not to engage in covert operations. He has changed the procedure for notifying Congress when an intelligence activity does take place. Finally, he has installed people with seasoned judgment to be White House Chief of Staff, National Security Adviser and Director of Central Intelligence.

The bottom line, however, is that the mistakes of the Iran/Contra Affair were just that -- mistakes in judgment, and nothing more. There was no constitutional crisis, no systematic disrespect for 'the rule of law,' no grand conspiracy, and no Administration-wide dishonesty or cover-up. In fact, the evidence will not support any of the more hysterical conclusions the Committees' report tries to reach.

No one in the government was acting out of corrupt motives. To understand what they did, it is important to understand the context within which they acted. The decisions we have been investigating grew out of:

-- efforts to pursue important U.S. interests in both Central America and in the Middle East;

-- a compassionate, but disproportionate concern for the fate of American citizens held hostage in Lebanon by terrorists, including one CIA station chief who was killed as a result of torture;

-- a legitimate frustration with abuses of power and irresolution by the legislative branch; and

-- an equally legitimate frustration with leaks of sensitive national security secrets coming out of both Congress and the executive branch.

Understanding this context can help explain and mitigate the resulting mistakes. It does not explain them away, or excuse their having happened."

P. 2 - "In order to support rhetorical overstatements about democracy and the rule of law, the Committees have rested their case upon an aggrandizing theory of Congress's foreign policy powers that is itself part of the problem."

P. 3 - "A substantial number of the mistakes of the Iran/Contra Affair resulted directly from an ongoing state of political guerrilla warfare over foreign policy between the legislative and executive branches. We would include in this category the excessive secrecy of the Iran initiative that resulted from a history and legitimate fear of leaks. We also would include the approach both branches took toward the so-called Boland Amendments. Congressional Democrats tried to use vaguely worded and constantly changing laws to impose policies in Central American that went well beyond the law itself. For its own part, the Administration decided to work <u>within</u> the letter of the law convertly, instead of forcing a public and principled confrontation that would have been healthier in the long run."

P. 4 - "<u>Why We Reject the Committees' Report</u>

Sadly, the Committees' report reads as if it were a weapon in the ongoing guerilla warfare, instead of an objective analysis. Evidence is used selectively and unsupported inferences are drawn to support politically biased interpretations. As a result, we feel compelled to reject not only the Committees' conclusions, but the supposedly 'factual' narrative as well."

P. 5 - "The narrative is not a fair description of events, but an advocate's legal brief that arrays and selects so-called 'facts' to fit preconceived theories. Some of the resulting narrative is accurate and supported by the evidence. A great deal is overdrawn, speculative, and built on a selective use of the Committees' documentary materials."

P. 6 - "The most politically charged example of the Committees' misuse of evidence is in the way it presents the President's lack of knowledge about the 'diversion' -- that is, the decision by the former National Security Adviser, Admiral John Poindexter, to authorize the use of some proceeds from Iran arms sales to support Nicaraguan Democratic Resistance, or Contras. This is the one case out of thousands in which the Committees -- instead of going beyond the evidence as

the report usually does -- refused instead to accept the overwhelming evidence with which it was presented. The report does grudgingly acknowledge that it cannot refute the President's repeated assertion that he knew nothing about the diversion before Attorney General Edwin Meese discovered it in November 1986. Instead of moving forward from this to more meaningful policy questions, however, the report seeks, without any support, to plant doubts. We will never know what was in the documents shredded by Lt. Col. Oliver L. North in his last days on the NSC staff, the report says. Of course we will not. That same point could have been made, however, to cast unsupported doubt upon every one of the report's own conclusions. This one seems to be singled out because it was where the President put his own credibility squarely on the line.

The evidence shows that the President did not know about the diversion. As we discuss at length in our chapter in the subject, this evidence includes a great deal more than just Poindexter's testimony. Poindexter was corroborated in different ways by the President's own diaries and by testimony form North, Meese, Commander Paul Thompson (formerly the NSC's staff attorney) and former White House Chief of Staff Donald Regan. The conclusion that the President did not know about the diversion, in other words, is one of the strongest of all the inferences one can make from the evidence before these Committees. Any attempt to suggest otherwise can only be seen as an effort to sow meritless doubts in the hope of reaping a partisan political advantage."

P. 8 - "The narrative seems to make every judgment about the evidence in favor of the interpretation that puts the Administration in the worst possible light."

P. 9 - "We have no quarrel with the fact that Israel, or any other sovereign nation, may refuse to let its officials and private citizens be subject to interrogation by a foreign legislature. The U.S., no doubt, would do the same. But we do object vehemently to the idea that the Committees should use unsworn and possibly self-serving information from a foreign government to reject sworn testimony given by a U.S. official -- particularly when the U.S. official's testimony was given under a grant of immunity that protected him from prosecution arising out of the testimony for any charge except perjury."

P. 11 - ". . . it is interesting to note how much the majority is willing to make of one uncorroborated, disputed North statement [regarding Casey approval of off-the-shelf covert operations] that happens to suit its political purpose, in light of the way it treats others by North that are less convenient for the narrative's thesis."

P. 12 - "The Committees' report criticizes Meese for not turning his fact-finding operation into a formal criminal investigation a day or two earlier than he did. In fact, the report strongly tries to suggest that Meese either must have been incompetent or must have been trying to give Poindexter and North more time to cover their tracks. We consider the first of these charges to be untrue and the second to be outrageous."

P. 13 - ". . . the Committee report tries -- almost as an overarching thesis -- to portray the Administration as if it were behaving with wanton disregard for the law. In our view, ever single one of the Committee's legal interpretations is open to serious question. On some issues -- particularly the ones involving the statutes governing covert operations -- we believe the law to be clearly on the Administration's side. In every other case, the issue is at least debatable. In some, such as the Boland Amendment, we are convinced we have by far the better argument. In a few others -- such as who owns the funds the Iranians paid Gen. Richard Secord and Albert Hakim -- we see the legal issue as being close . . . . What the Committees' report has done with the legal questions, however, is to issue a one-sided legal brief that pretends the Administration did not even have worthwhile arguments to make. As if that were not enough, the report tries to build upon these one-sided assertions to represent a politicized picture of an Administration that behaved with contempt for the law. If nothing else would lead readers to view the report with extreme skepticism, the adversarial tone of the legal discussion should settle the matter."

P. 14 - ". . . the Administration did proceed legally in pursuing both its Contra policy and the Iran arms initiative. We grant that the diversion does raise some legal questions, as do some technical and relatively insubstantial matters relating to the Arms Export Control Act. It is important to stress, however, that the Administration could have avoided every one of the legal questions it inadvertently raised, while continuing to pursue the exact same policies as it did.

The fundamental issues, therefore, have to do with the policy decisions themselves, and with the political judgments underlying the way policies were implemented. When these matters are debated as if they were legal -- and even criminal -- concerns, it is a sign that interbranch intimidation is replacing and debasing deliberation. That is why we part company not only with the Committee Report's answers, but with the very questions it identifies as being the most significant."

P. 18 - "By the late spring of 1984, it became clear that the resistance would need some source of money if it were to continue to survive while the Administration tried to change public and Congressional opinion. To help bridge the gap, some Administration officials began encouraging foreign governments and U.S. private citizens to support the Contras. NSC staff members played a major role in these efforts, but were specifically ordered to avoid direct solicitations. The President clearly supported private benefactor and third country funding, and neither he nor his designated agents could constitutionally be prohibited from encouraging it. To avoid political retribution, however, the Administration did not inform Congress of its actions."

P. 19 - "Poindexter and North testified that they both believed these [Contra support] activities were legally permissible and authorized. They also said that the President was kept generally informed of their coordinating role. The President has said, however, that he was not aware of the NSC staff's military advice and coordination.

Because the Boland Amendment is an appropriations rider, it is worth noting that there is no evidence that any substantial amounts of appropriated taxpayer funds were used in support of these efforts. In addition, the NSC staff believed -- as we do -- that the prohibition did not cover the NSC."

P. 19, 12n - "McFarlane may be an arguable exception."

P. 19 - "At no time, in other words, did members of the President's staff think their activities were illegal. Nevertheless, the NSC staff did make a concerted effort to conceal its actions from Congress. There is no evidence, however, to suggest that the President or other senior Administration officials knew about this concealment."

P. 20 - "We do believe, for reasons explained in the appendix to this introductory chapter and in our subsequent chapters on Nicaragua, that virtually all of the NSC staff's activities were legal, with the possible exception of the diversion of Iran arms sale proceeds to the resistance. We concede that reasonable people may take a contrary view of what Congress intended the Boland Amendments to mean. But we also agree with a letter from John Norton Moore that appears in an appendix to our report, that to the extent that the amendment was ambiguous, 'well recognized principles of due process and separation of powers would require that it be interpreted to protect Executive Branch flexibility.

Notwithstanding our legal opinions, we think it was a fundamental mistake for the NSC staff to have been secretive and deceptive about what it was doing. The requirement for building long term political support means that the Administration would have been better off if it had

conducted its activities in the open. Thus, the President should simply have vetoed the strict Boland Amendment in mid-October 1984, even though the amendment was only a few paragraphs in an approximately 1,200 page long continuing appropriations resolution, and a veto therefore would have brought the government to a standstill within three weeks of a national election. Once the President decided against a veto, it was self-defeating to think a program this important could be sustained by deceiving Congress. Whether technically illegal or not, it was politically foolish and counterproductive to mislead Congress, even if misleading took the form of artful evasion or silence instead of overt misstatement."

P. 25 - "Congress was not informed of the Administration's dealings with Iran until after the public disclosure. The failure to disclose resembled the Carter Administration's similar decisions not to disclose in the parallel Iranian hostage crisis of 1979-81. President Reagan withheld disclosure longer than Carter, however -- by about eleven months to six."

P. 27 - "The lack of detailed information sharing within the Administration was what made it possible for Poindexter to authorize the diversion and successfully keep his decision to do so from the President. We have already indicated our reasons for being convinced the President knew nothing about the diversion. The majority report says that if the President did not know about it, he should have. We agree, and so does the President. But unlike some of the other decisions we have been discussing, the President cannot himself be faulted for this one. The decision was Poindexter's, and Poindexter's alone.

As supporters of a strong presidential role in foreign policy, we cannot take Poindexter's decision lightly. The Constitution strikes an implicit bargain with the President: in return for getting significant discretionary power to act, the President was supposed to be held accountable for his decisions. By keeping an important decision away from the President, Poindexter was acting to undercut one foundation for the discretionary presidential power he was exercising."

P. 29 - "We do believe that Secord and Hakim were acting as the moral equivalents of U.S. agents, even if they were not U.S. agents in law . . . . we do feel troubled by the fact that there was not enough legal clarity, or accounting controls, placed on the Enterprise by the NSC."

P. 30 - "The shredding of documents and other efforts at covering up what had happened were also undertaken by NSC staff members acting on their own, without the knowledge, consent or acquiescence of the President or other major

Administration officials, with the possible exception of Casey.

In the week or two immediately after the Iran initiative was disclosed in a Lebanese weekly, the President did not tell the public all that he knew because negotiations with the Second Channel were still going on, and there remained a good reason for hoping some more hostages might soon be released. Once the President learned that not all of the relevant facts were being brought to his attention, however, he authorized the Attorney General immediately to begin making inquiries. Attorney General Meese acted properly in his investigation, pursuing the matter as a fact finding effort because he had no reason at the time to believe a crime had been committed. Arguments to the contrary are based strictly on hindsight. In our opinion, the Attorney General and other Justice Department officials did an impressive job with a complicated subject in a short time. After all, it was their investigation that uncovered and disclosed the diversion of funds to the Contras."

P. 32 - "Poindexter was seen as a technician, chosen to perform a technical job, not to exercise political judgment.

Once the NSC had to manage two operations that were bound to raise politically sensitive questions, it should have been no surprise to anyone that Poindexter made some mistakes. It is not satisfactory, however, for people in the Administration simply to point the finger at him and walk away from all responsibility. For one thing, the President himself does have to bear personal responsibility for the people he picks for top offices. But just as it would not be appropriate for the fingers to point only at Poindexter, neither is it right for them only to point to the top.

Everyone who had a stake in promoting a technician to be National Security Adviser should have realized that meant they had a responsibility to follow and highlight the political consequences of operational decisions for the President. Even if the cabinet officials did not support the basic policy, they had an obligation to remain engaged, if they could manage to do so without constantly rearguing the President's basic policy choice. Similarly, Chief of Staff Donald Regan may not have known, or had reason to know, the details of the Iran initiative or Contra resupply effort. But he should have known that North's responses to Congressional inquiries generated by press reports were too important politically to be left to the people who ran the NSC staff.

P. 33 - ". . . consider the common threads in the decisions we have already labelled as mistakes. These have included:

-- the President's decision to sign the Boland Amendment of 1984, instead of vetoing it;

-- the President's less than robust defense of his office's constitutional powers, a mistake he repeated when he acceded too readily and too completely to waive executive privilege for our Committees' investigation;

-- the NSC staff's decision to deceive Congress about what it was doing in Central America;

-- the decision, in Iran, to pursue a covert policy that was at odds with the Administration's public expressions, without any warning signals to Congress or our allies;

-- the decision to use a necessary and constitutionally protected power of withholding information from Congress for unusually sensitive covert operations, for a length of time that stretches credulity;

-- Poindexter's decision to authorize the diversion on his own; and, finally,

-- Poindexter and North's apparent belief that covering up was in the President's political interest.

We emphatically reject the idea that through these mistakes, the executive branch subverted the law, undermined the Constitution, or threatened democracy."

P. 34 - "Congress has a hard time even conceiving of itself as contributing to the problem of democratic accountability. But the record of ever changing policies toward Central America that contributed to the NSC staff's behavior is symptomatic of a frequently recurring problem. When Congress is narrowly divided over highly emotional issues, it frequently ends up passing intentionally ambiguous laws or amendments that postpone the day of decision. In foreign policy, those decisions often take the form of restrictive amendments on money bills that are open to being amended against <u>every year</u>, with new, and equally ambiguous language replacing the old. This matter is exacerbated by the way Congress, year after year, avoids passing appropriations bills before the fiscal year starts and then wraps them together in a government-wide continuing resolution loaded with amendments that cannot be vetoed without threatening the whole government's operation.

One properly democratic way to ameliorate the problem of foreign policy inconsistency would be to give the President an opportunity to address the major differences between himself and the Congress cleanly, instead of combining them with unrelated subjects. To restore the presidency to the position it held just a few Administrations ago, Congress should exercise the self-discipline to split continuing resolutions into separate appropriations bills and present

each of them individually to the President for his signature or veto. Even better would be a line-item veto that would permit the President to force Congress to an override vote without jeopardizing funding for the whole government. Matters of war and peace are too important to be held hostage to governmental decisions about funding Medicare or highways. To describe this legislative hostage taking as democracy in action is to turn language on its head."

P. 36 - "If Congress can learn something about democratic responsibility from the Iran-Contra affair, so can future Presidents learn something too. The Administration would have been better served over the long run by insisting on a principled confrontation over those strategic issues that can be debated publicly. Where secrecy is necessary, as it often must be, the Administration should have paid more careful attention to consultation and the need for consistency between what is public and what is covert. Inconsistency carries a risk to a President's future ability to persuade, and persuasion is at the heart of a vigorous, successful presidency . . . . the mistakes of the Iran/Contra Affair, ironically, came from a lack of communication and an inadequate appreciation of the importance of ideas. During President Reagan's terms of office, he has persistently taken two major foreign policy themes to the American people: a strong national defense for the U.S., and support for the institutions of freedom abroad. The 1984 election showed his success in persuading the people to adopt his fundamental perspective."

P. 38 - "The Constitution protects the power of the President, either acting himself or through agents of his choice, to engage in whatever diplomatic communications with other countries he may wish. It also protects the ability of the President and his agents to persuade U.S. citizens to engage voluntarily in otherwise legal activity to serve what they consider to be the national interest. That includes trying to persuade other countries to contribute their own funds for causes both countries support. To whatever extent the Boland Amendments tried to prohibit such activity, they were clearly unconstitutional."

P. 39 - "If the Constitution prohibits Congress from restricting a particular presidential action directly, it cannot use the appropriation power to achieve the same unconstitutional effect. Congress does have the power under the Constitution, however, to use appropriations riders to prohibit the entire U.S. government from spending any money, including salaries, from providing covert or overt military support to the Contras. Thus, the Clark Amendment prohibiting all U.S. support for the Angolan resistance in 1976 was constitutional. Some member of Congress who supported the Boland Amendment may have thought they were enacting a

prohibition as broad as the Clark Amendment. The specific language of the Boland Amendment was considerably more restricted, however, in two respects.

(a) By limiting the coverage to agencies or entities involved in intelligence activities, Congress chose to use language borrowed directly from the Intelligence Oversight Act of 1980. In the course of settling on that language in 1980, Congress deliberately decided to exclude the National Security Council (NSC) from its coverage. At not time afterward did Congress indicate an intention to change the language's coverage. The NSC therefore was excluded from the Boland Amendment and its activities were therefore legal under this statute.

(b) The Boland prohibitions also were limited to spending that directly or indirectly supported military or paramilitary operations in Nicaragua. Under this language, a wide range of intelligence gathering and political support activities were still permitted, and were carried out with the full knowledge of the House and Senate Intelligence committees.

(c) Virtually all, if not all, of the CIA's activities examined by these Committees occurred after the December 1985 law authorized intelligence sharing and communications support and were fully legal under the terms of that law.

(d) If the NSC had been covered by the Boland Amendments, most of Oliver North's activity still would have fallen outside the prohibitions for reasons stated in (b) and (c) above.

The Administration was also in substantial compliance with the laws governing covert actions throughout the Iran arms initiative.

It is possible to make a respectable legal argument to the effect that the 1985 Israeli arms transfers to Iran technically violated the terms of the Arms Export Control Act (AECA) or Foreign Assistance Act (FAA), assuming the arms Israel transferred were received from the U.S. under one or the other of these statutes. However:

(a) Covert transfers under the National Security Act and Economy were understood to be alternatives to transfers under the AECA and FAA that met both of these latter act's essential purposes by including provisions for Presidential approval and congressional notification.

(b) The requirement for U.S. agreement before a country can retransfer arms obtained from the U.S. is meant to insure

that retransfers conform to U.S. national interests. In this case, the Israeli retransfers occurred with Presidential approval indicating that they did so conform.

(c) The Israeli retransfer and subsequent replenishment made the deal essentially equivalent to a direct U.S. sale, with Israel playing a role fundamentally equivalent to that of a middle man. Since the U.S. could obviously have engaged in a direct transfer, and did so in 1986, whatever violation may have occurred was, at most, a minor and inadvertent technicality.

A verbal approval for covert transactions meets the requirements of the Hughes-Ryan Amendment and National Security Act. Verbal approvals ought to be reduced to writing as a matter of sound policy, but they are not illegal . . . . the President has the constitutional and statutory authority to withhold notifying Congress of covert activities under very rare conditions. President Reagan's decision to withhold notification was essentially equivalent to President Carter's decisions in 1979-80 to withhold notice for between three and six months in parallel Iran hostage operations."

P. 42 - "We consider the ownership of the funds the Iranians paid to the Secord-Hakim 'Enterprise to be in legal doubt."

THE WHITE HOUSE
WASHINGTON

Date: Nov. 13, 1987

TO: Howard H. Baker, Jr.
Chief of Staff to the President

FROM: **ARTHUR B. CULVAHOUSE, JR.**
Counsel to the President

FYI: Warren Rudman would like you to see the attached

COMMENT: Iran-Contra individual views. They will be joined

ACTION: by all Senate Committee members.

[redacted]

[redacted]

4:30pm

United States Senate

SELECT COMMITTEE ON SECRET MILITARY
ASSISTANCE TO IRAN AND THE NICARAGUAN OPPOSITION
WASHINGTON, DC 20510

November 12, 1987

By Hand

The Honorable Alan C. Raul
Associate Counsel to the President
c/o Ms. Patti Aronsson
Room 436, Old Executive Office Building
Washington, D.C. 20500

Dear Alan,

I am transmitting herewith the revised "Additional Views of Chairman Daniel K. Inouye and Vice Chairman Warren Rudman," for review by the declassification committee. Please note that the enclosed supersedes and replaces the "Statement of Chairman Daniel K. Inouye and Vice Chairman Warren Rudman," that I sent you yesterday. Please have the committee direct its attention to the enclosed instead.

Would you kindly call me as soon as possible today and let me know whether the enclosed is "okay to print."

Many thanks and best regards.

Sincerely,

Mark A. Belnick
Executive Assistant
to the Chief Counsel

MAB:nsd

Enclosure

cc: Neil Eggleston, Esq.
Deputy Chief Counsel, House Select Committee

cc: George Van Cleve, Esq.
Chief Minority Counsel, House Select Committee

"TOP SECRET CODEWORD WITH TOP SECRET CODEWORD ENCLOSURE"

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ADDITIONAL VIEWS OF CHAIRMAN DANIEL K. INOUYE
AND VICE CHAIRMAN WARREN B. RUDMAN

We wish to acknowledge the bipartisan spirit that characterized our Committee's work and resulted in a Report signed by all of the Democrats and a majority of the Republican Members of the Senate Select Committee. We wish also to recognize the outstanding leadership of our distinguished colleague, Representative Lee Hamilton, Chairman of the House Select Committee.

Tragedies like the Iran-Contra Affair unite our Government and our people in their resolve to find answers, draw lessons and avoid a repetition. In investigations of this magnitude -- which involve serious questions relating to the proper functioning of our Government -- it is just as important to lay aside partisan differences and avoid unjustified criticisms as it is to make the justified criticisms set forth in the Report. In that spirit, we wish to recognize the cooperation that we received from the White House throughout this inquiry.

Once our investigation commenced, the White House rose above partisan considerations in cooperating with our far-reaching requests and in ensuring the cooperation of other agencies and departments of the Executive Branch. We dealt primarily with three Counsels to the President: David Abshire, Peter Wallison, and, for most of the period, Arthur B. Culvahouse, Jr., and his deputies, William B. Lytton III, Alan Charles Raul and Dean McGrath. Our experience was the same with all. They tried their

best to accommodate our demanding requests, to iron out differences, and to meet our short deadlines in a spirit of cooperation and good faith. Consequently, in compliance with our requests, over 250,000 documents were produced by the White House alone; additional large quantities of material were produced by other Executive Branch agencies and departments; and relevant personnel and officials throughout the Executive Branch, including Cabinet officers, were made available for interviews, depositions, discussions, and assistance in facilitating our work.

Although the House and Senate Select Committees consolidated their investigations and hearings, the two Committees nevertheless had their own separate staffs, styles, requirements, perspectives and experience. Speaking for the Senate Committee's experience, we can state that, despite some differences and some compromises, all of our requests to the White House and the Executive Branch were fulfilled. The White House pledged to cooperate with this investigation; and it did.

One of our requests was for excerpts from the President's diaries. Those of us who keep diaries can appreciate the intensely personal and private nature of the entries we make in such books, confiding our innermost concerns, aspirations and thoughts. We can therefore understand the profoundly difficult and personal nature of a decision to share those private entries with others. The President made that decision in this investigation. Because of the importance we attached to the

President's diary entries, we asked for them. Because of our respect for personal privacy, we agreed not to publish or paraphrase them without the President's consent.

At our request, and unlike the procedure followed by the Tower Board, the White House Counsel personally reviewed all of the President's handwritten diaries from January 1, 1984 through December 19, 1986, and represented to us that he had copied all relevant entries. This procedure resulted in far more complete production than the Tower Board requested, and the results were important to our investigation. We were able to draw on the diaries in reaching our conclusions; and we do not fault the President for his decision that the entries themselves, none of which alter the conclusions in this Report, should not be paraphrased in this Report.

In addition to his own diary notes, the President instructed all other Executive Branch officials to make their relevant records and notes available to the Committees. These included the contemporaneous handwritten notes made by the Secretary of State's Executive Assistant describing, among other things, blunt private conversations between the Secretary of State and the President. As Secretary Shultz testified, it was the President's decision that this material, which played a significant role in our inquiry, be made available to the Committees, even though, in the Secretary's words, "I have always taken the position in 10-1/2 years as a member of the Cabinet that these conversations [with the President] are privileged, and I would not discuss

them. This is an exception, and I have made this material available at the President's instruction. . . ."

It has been asserted that the White House and a number of other executive agencies on several occasions delayed production of documents to such an extent that materials could not be reviewed in time for witness interviews or public testimony. Again, that was not our experience, although we sometimes set deadlines for production of documents that proved impossible to meet. Further, it is a misconception that the Committees did not receive access to Admiral Poindexter's telephone logs until after Colonel North had testified. The Senate Committee received access to those logs approximately one month before Col. North testified, and prior to the three sessions of Admiral Poindexter's deposition commencing June 17. Moreover, we were able to use the logs with Admiral Poindexter at the June sessions of his deposition, even though the Independent Counsel objected, understandably, to our showing the logs to Admiral Poindexter (as we did) during his examination.

There is one open matter, relating to a request by the Committees for a computer "dump" of certain data in the NSC's "PROF" message system. (See the discussion under "Pending Request" in Appendix C; and see the Additional Views submitted by Hon. Peter W. Rodino, Jr., M.C., for himself and 6 other Members of the House Select Committee.) We wish to stress the following facts on that matter.

First, the request for the computer "dump" was not made by the Committees until after the hearings ended, in August. The request was accompanied by a number of other, quite extensive demands, seeking, among other things, a re-review of files that previously had been searched on behalf of the Independent Counsel and the Committees, and setting a short deadline for compliance. We wanted to leave no stone unturned. The White House Counsel responded to all of these requests in a September 4 letter which is only quoted partially in Appendix C and in the Additional Views of the 7 House Committee Members, but which also stated:

> All of the documents have been reviewed several times by the FBI and we simply see no useful purpose in going through this exercise again. . . . We have fully complied with our responsibility by identifying and providing all responsive documents.
>
> . . .
>
> We are not trying to be obstructive in any way. We have spent many thousands of man hours over the last nine months responding to your many requests for information. We have produced some 250,000 pieces of paper. We have declassified almost 4,000 documents. We have facilitated the interviews, depositions and testimony of hundreds of Executive Branch employees.

That requests framed so broadly drew objections would not be surprising to any investigator; and we at least anticipated that there would be good faith negotiations to narrow the requests so that we would obtain access to what we really wanted, but could not precisely define without discussions with the White House Counsel. That dialogue took place.

Second, after those discussions, the White House Counsel agreed to permit the Committees to obtain the deleted PROF

messages pursuant to a computer program that the Committees' experts were confident they could create. The White House thus agreed in September to give the Committees what they asked for -- the deleted messages. Unfortunately, the Committees' original computer experts were unable to develop a computer program that would retrieve the material. The Committees then engaged a new expert, who believes it has now developed the appropriate retrieval program. The White House cooperated with the Committees' experts in providing information and personnel to facilitate the development of the requisite computer program; and the White House agreed to produce the retrieved entries even after this Report is filed.

Third, as the Committees note in Appendix C, "There is no assurance that the material extracted [as a result of the "dump"] will be anything more than fragments, and even the fragments may be unrelated to any matters under investigation." A sample "dump" performed by the White House pursuant to specifications of the Committees' experts did not yield any new information.

Fourth, because nobody has any reasonable expectation that the computer "dump" will produce any new information, no Member of the House or Senate Select Committees requested or suggested that the Report be delayed pending the outcome of the computer "dump," although we delayed our Report for other reasons. Nevertheless, in the interest of completeness, we have asked that the "dump" be produced after the Report is issued even if it yields, as White House Counsel believes (based on information

from his computer personnel), only free-floating fragments and "computer gibberish."

Finally, all of the Members of our Committee wish to note that, in connection with the computer "dump" request, as with all other of our requests throughout the investigation, the record has been one of cooperation by the White House and the Executive Branch -- a record which we hope will serve as precedent for future Administrations.