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WITHDRAWAL SHEET

Ronald Reagan Library

Collection Name

CULVAHOUSE, ARTHUR B.:FILES

File Folder

IRAN/ARMS TRANSACTION: NORTH/POINDEXTER
CLASSIFIED DISCOVERY REQUEST (8 OF 13)

Box Number

CFOA 1131

Drawer

DLB 5/14/2014

FOIA

S643

Systematic

SYSTEMATIC

ID	Doc Type	Document Description	No of Pages	Doc Date	Restrictions
164967	PAPER	INTELLIGENCE COMMUNITY COMPLIANCE WITH THE COURT'S JULY 8 ORDER	2	ND	B1
164968	PAPER	EXHIBIT A TO ITEM #164967	3	ND	B1
164969	FORM	REQUEST FOR APPOINTMENTS	1	7/27/1988	B3 B6

The above documents were not referred for declassification review at time of processing

Freedom of Information Act - [5 U.S.C. 552(b)]

- B-1 National security classified information [(b)(1) of the FOIA]
- B-2 Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
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- B-9 Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRESS GUIDANCE RE JUDGE WALSH AND NATIONAL SECURITY SECRETS

- The Administration has cooperated fully with Independent Counsel Walsh's investigation. We have provided him with thousands of documents aggregating hundreds of thousands of pages, much of which originally was highly classified. The Administration has worked with Independent Counsel Walsh since indictments were returned on March 16 to declassify the information which the Independent Counsel expects to introduce at trial as part of his prosecution case, and we believe that mutually satisfactory results have been reached such that the prosecution can go forward while national security information remains protected.
- The Administration's national security community last week advised Independent Counsel Lawrence Walsh that certain extremely sensitive national security information could not be publicly disclosed at the trial of Lt. Col. Oliver North. This classified information appears to be covered by a classified supplemental discovery request in which Judge Gerhard Gesell ordered that certain documents be provided to Lt. Col. North and his defense counsel.
- Independent Counsel Walsh was advised of the sensitivity of this information in order that he could seek rulings from the court that such information was immaterial and/or irrelevant to the prosecution against Lt. Col. North. The Independent Counsel has made a filing with the court opposing the discovery request. It is anticipated that there will be court proceedings this week, and appropriate filings will be made with the court.
- We understand that Independent Counsel Walsh is arguing before the court that this information sought by the defense is neither relevant nor material to the case at trial. We hope that he is successful in that endeavor. We will continue to work with Independent Counsel Walsh in an effort to resolve this issue consistent with his needs and with national security interests.
- This is not a decision to prevent the disclosure of the information to the Independent Counsel or to the court. Independent Counsel Walsh already has had access to much of this very sensitive information in classified form under appropriate security arrangements, and the Administration is offering to provide relevant details of this

sensitive information to Judge Gesell. This is not a question of whether the information will be disclosed to the prosecutor or to the judge; it has been and will be so disclosed. There are statutory procedures designed to allow relevant classified information to be available for use (but not disclosure) by prosecutors and defendants while protecting secrets, and we will continue to cooperate under those procedures.

- [USE ONLY IF REQUIRED]: This information must remain classified because of exceedingly sensitive national security considerations. There is no other reason for this decision. The information is not embarrassing to the President or to the Vice President, and there is no ulterior motive in the decision to maintain its classification. It simply is very sensitive. Its disclosure would seriously harm America's national security.

~~TOP SECRET~~

**THIS IS A COVER SHEET
FOR
INFORMATION SUBJECT TO**

Basic security requirements contained in Department of Justice Regulations (28 CFR Part 17).

The unauthorized disclosure of the information contained in the attached document(s) could reasonably be expected to cause exceptionally grave damage to the national security.

Handling, storage, reproduction and disposition of the attached document(s) will be in accordance with policies and procedures set forth in regulations cited above.

dh
5/14/14

(This cover sheet is unclassified when separated from classified documents)

~~TOP SECRET~~

Office of Independent Counsel
Iranian Arms Sales/Contra Diversion

CONTROL FORM FOR TOP SECRET (TS) -
SENSITIVE COMPARTMENTED INFORMATION (SCI) -
NON-SCI CODE WORD MATERIAL

To verify security clearances call Security Officer, Independent Counsel.
(IC), extension _____ Iranian Arms Sales/Contra Diversion

Instructions: 1. Complete front side. 2. Complete All blanks that apply. 3. Obtain signature of receiver. 4. Separate original from copy.
5. Send copy to: ☐ Document Security Officer
IC Attn.: Security Officer ~~George Litzenberg, Jr.~~ **AL STANSBURY**

☐ SCI	☐ NON-SCI
☐ BYE	Code Word Identifier
☐ TK	
☐ SI	
☐ OTHER	

☒ TOP SECRET
☐ SECRET
☐ CONFIDENTIAL

Control Number IC-88-323 Copy db 5/14/14 of _____ copies

Employee initially handling material Simmons

Originator of Material OIC

(Multiple Sources)

☐ LTR ☐ LHM ☐ REPORT ☐ TELETYPE ☐ AIRTEL ☐ MEMO ☐ OTHER

Dated 27 Jul 88

Captioned: Intelligence Community Compliance with The
Court's July 8 1988 Order

IC file and serial number

Each employee handling this material will:

(1) Notify ☐ IC, Ext. _____ or ☐ _____; and, (2) Note on reverse side of this form the following action which applies:

- A - Relinquished to another employee within IC, or _____
B - Delivered between field divisions and/or ICHQ, or outside agency, or
C - Downgraded, declassified or destroyed.

A - Sign and date; DO NOT DETACH FROM MATERIAL

Signature of Receiver	Date	Signature of Receiver	Date

B - Detach form, fill out this portion and route original to ☐ IC, Room _____ or, ☐ _____

Deliver to: _____ Date _____

Reminder: OBTAIN RECEIPT (IC-502) AND ROUTE ORIGINAL TO ☐ IC, Room _____ ☐ _____

C - Detach form, fill out this portion and route to ☐ IC, Room _____ ☐ _____

Downgraded to: _____ by _____ date _____

Declassified by: _____ date _____

Destroyed by: _____ date _____

Office of Independent Counsel
Iranian Arms Sales/Contra Diversion

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IRAN/ARMS TRANSACTION: NORTH/POINDEXTER
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FOIA
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Box Number
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144

ID	Document Type	No of pages	Doc Date	Restric- tions
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164967	PAPER	2	ND	B1
	INTELLIGENCE COMMUNITY COMPLIANCE WITH THE COURT'S JULY 8 ORDER			

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CLASSIFIED DISCOVERY REQUEST (8 OF 13)

FOIA
S643
SYSTEMATIC

Box Number
CFOA I131

144

ID	Document Type Document Description	No of pages	Doc Date	Restric- tions
164969	FORM REQUEST FOR APPOINTMENTS	1	7/27/1988	B3 B6

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From W.H. —
Stevens.

Paul Nick Rostow —

Jim Collins Bill —

A. B. —

Brenda Reger

~~Nancy Menan~~

Dan Levin

THE WHITE HOUSE
WASHINGTON

Date: 7/27

FOR:

ABC

FROM:

WILLIAM J. LANDERS
Associate Counsel to the President

Attached is a draft
of the notice for the meeting
that may need to take place
tomorrow.

Please send to Nick Ponton
if it is O.K.

CLOSE HOLD

Not used

THE WHITE HOUSE

WASHINGTON

July 26, 1988

MEMORANDUM FOR SECRETARY OF STATE
SECRETARY OF DEFENSE
SECRETARY OF CENTRAL INTELLIGENCE AGENCY
DIRECTOR OF NATIONAL SECURITY AGENCY
ASSOCIATE ATTORNEY GENERAL

THROUGH: KENNETH M. DUBERSTEIN
CHIEF OF STAFF TO THE PRESIDENT

FROM: ARTHUR B. CULVAHOUSE, JR.
COUNSEL TO THE PRESIDENT

SUBJECT: Meeting at _____, on Thursday, July 28, 1988
White House Situation Room

A meeting has been scheduled at _____ a.m. on Thursday, July 28 in the White House Situation Room with Independent Counsel Walsh to consider discovery issues arising in connection with United States v. North.

Judge Gesell has stated that he expects the Government to comply with the August 1 deadline for 20 items of classified information he ordered on July 8. Independent Counsel Walsh has indicated that he will report to Judge Gesell by August 1 on whether the Government can comply.

A meeting was held on Wednesday, July 27, with Independent Counsel Walsh to discuss whether there were procedures that could be followed to comply with the discovery order without taking several months to search all documents concerning the programs identified in items 1-20 of the Supplemental Discovery Request. The consensus of people who have knowledge of the documents was that the time needed to locate and review the documents could not be cut down in any significant respect. They concluded that Judge Gesell's limitations had only limited the number of documents that needed to be produced and not the number of documents that needed to be reviewed.

The purpose of this meeting with Independent Counsel Walsh is to determine if the heads of the relevant Executive departments and agencies agree that the discovery process will require the time indicated by their staffs or whether there is any directive or order that they can issue to expedite the process.

CLOSE HOLD

Judge Walsh found CP

Judge Walsh opposed drawing rights

Means to make necessary
disclosure thru appropriate
CIPD procedures.

Offered to provide CP
w/ details of case

Talky Pts
Judge Walsh

3:00 est
7/28

① Will provide answers in the following form:

a) description of steps taken by each agency that searched ~~for~~ for documents concerning the program.

b) An identification of the documents that were found concerning

- funding
- knowledge
- North's involvement
- SIVIP

② Quid pro quo:

we will prepare a statement for his filing detailing the reasons why complete answers will require a full search.

~~- need to in order to have a complete record that ~~it is~~ our position is ~~not~~ that we would ~~have to~~ provide answers if we had the time~~

- Justice Dept lawyers will draft - not taking resources away from search.

- must do to complete record
That Gessell's ~~for~~ "narrowing"
of the discovery only ~~not~~
affected what ~~was~~ needed
to be ^{produced} ~~searched~~, not what
needed to be searched
- have to make sure Gessell
knows what the full situation
is, ~~that~~ ~~don't~~ can't play hide
the ball.

Concluding motion for
Severance
if want more / Sever

CLOSE HOLD

~~THE WHITE HOUSE~~
WASHINGTON

Date: 7/29/88

TO: WILLIAM LANDERS
NICHOLAS ROSTOW

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

Please see my note.

CLOSE HOLD

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506
July 19, 1988

SENSITIVE/CLOSE HOLD

INFORMATION

MEMORANDUM FOR ARTHUR B. CULVAHOUSE, JR.
WILLIAM LANDERS
BARRY KELLY
RUSSELL BRUEMMER
ELIZABETH RINDSKOPF

FROM: NICHOLAS ROSTOW *R.*
SUBJECT: Contingency Press Guidance

Attached is draft contingency press guidance for your review in light of Monday's meeting.

Attachment
As stated

*To Bill Landers
& Nick Rostow
looks very good -- I
assume Jimmy is content
with the description of the
information. Please review
the statement. Jimmy for
possible release by Mark
Fitzwater (if & only
if) the story blows
up ABC*

Draft: 7/19/88

Contingency Press Guidance

Both the Independent Counsel and the defendants in the Iran-Contra case have asked the U.S. Government to examine hundreds of thousands of classified documents to declassify them, wherever possible, for use in the public trial to which the defendants are entitled under our Constitution. We have sought to be as cooperative as possible *and have declassified over 300,000 pages of intelligence documents.*

~~With a few exceptions,~~ *A* all the documents which the Independent Counsel wishes to use at trial have been declassified ~~as he requested.~~ *to his satisfaction.*

Counsel for Oliver North have now requested, for his review and potential use at trial, thousands of additional documents covering several specific categories of governmental activities and information. The Independent Counsel has argued that these documents are not relevant to the case. The Court ~~has ruled,~~ *Apparently, however,*

however, that Lt. Col. North is entitled to these documents for his defense.

has ruled, as least preliminarily, The Sec State, Sec Def, DCI, NSA to Potus, *Our NSA*
The defendant's request, in response to the broad charge of conspiracy to defraud the government, goes to the broad sweep of U.S. Government activities in the spheres of both intelligence collection and covert action. *Unanimously* We have concluded that disclosure of the information in these additional documents would do enormous and certain damage to the policies, objectives, and

interests of the United States. They involve some of the most sensitive secrets of the U.S. Government, known only to a handful of individuals in the Executive branch and in the congressional intelligence committees. They go far beyond the issues and activities ^{publicly} disclosed in the congressional hearings and report on Iran-Contra, or the Tower Board report.

The documents contain, for example, information on our efforts to locate American hostages and on our plans for seeking their freedom. Release of these documents would endanger the lives of those who provide us with crucial information and would compromise some of the most vital secrets of U.S. operations and capability against terrorism. Other documents discuss the scope of sensitive, lawful U.S. activities in opposition to Communist tyranny in Afghanistan, Nicaragua, and elsewhere, and to Libyan terrorism, disclosure of which would also jeopardize the personal safety of many courageous individuals who have been associated with us, as well as play into the hands of those hostile to the United States. Much of the information sought involves specific and sensitive sources and methods of intelligence collection, on several continents, which would be irreparably compromised if the information were to be disclosed. Many of the activities in question also depend for their success on cooperation with friendly governments, which cooperate often at great risk to themselves, rely on our confidentiality, and will cease to work with us in these areas if this cooperation is revealed.

The count with ~~has~~ ^{has} ~~in~~
will receive ~~has~~ ^{has} removed ~~as~~
a classified brief describing this
information.

The Director of Central Intelligence has fully briefed the Independent Counsel on the sensitive material in the documents requested by the defendant and has informed him that they cannot be declassified. This decision was made ~~by the President~~, upon the unanimous recommendation of all his senior advisers in the national security community, including the heads of all relevant departments and agencies, and their general counsel.

At the President's direction, Director Webster stands ready to brief the intelligence committees fully on the sensitive material involved and the reasons for the President's decision.

We understand that this decision may ^[has] ^{ed} affect the prosecution of one or more counts in the indictment against defendant North but should not preclude trial of other counts. We will continue to cooperate in every way possible with the Independent Counsel as he proceeds, and with the Court.

TALKING POINTS FOR JULY 29, 1988 MEETING

- As you may have noted in the press, Independent Counsel Lawrence Walsh has advised the court in the Iran/Contra case that a body of classified information requested by defense counsel for Lt. Col. Oliver North cannot be publicly disclosed at trial. That material was ordered by Judge Gesell to be produced to the defense by the government in a July 8, 1988, classified order. The production date is next Monday, August 1.
- The defendants on May 23, 1988, previously requested 147 categories of highly-classified information, constituting some of the most sensitive secrets and programs in the United States government. That document discovery request was treated as a super classified document and distribution was limited. Fortunately, Judge Gesell determined that request was overbroad and twice denied it in its entirety.
- Unfortunately, on July 8, Judge Gesell granted the defense's request to reinstate part of that order, as to 20 categories of the information. Independent Counsel Walsh will argue before the court that this material is immaterial and irrelevant to the case charged against North. We believe that he will be unsuccessful. The court itself has noted that the broad conspiracy count charged against North -- that he defrauded the government by conducting a Contra resupply operation without using appropriated funds (a count much broader than the diversion of funds transaction) -- may bring into evidence information regarding a broad range of covert activities.
- This is not a circumstance of the Executive branch not sharing the information with the Independent Counsel or with the court. The Independent Counsel already knows what this sensitive information is, and the court will be briefed as well. The problem is that we believe that a substantial portion of the information requested by the defense cannot be publicly disclosed at trial and, since it can never be disclosed at trial, much of it should not be given to the defense.
- The Administration, since the indictment was returned in March has worked with the Independent Counsel to declassify the documents and information that he believes he needs to prosecute his case. We believe that we have satisfied him on that score and that we

have declassified the information he needs to prosecute his case. We have met every deadline imposed by the Court in this case to review the 300,000 pages produced in discovery. We produced declassified versions of the case-in-chief documents in three weeks.

- What is at issue now is information requested by the defense, and we believe that we simply cannot declassify or allow public release of that information consistent with the national security interest. Judge Gesell has made it clear that he will have a public trial, and that if any information is to be presented at trial, it will be in open court. The defense has refused to stipulate in general fashion.
- This may result in the dropping, or at least severance of, the broad conspiracy count against North. It may also jeopardize two other counts. That would still leave 10 counts against North, including false statements to Congress, obstruction of justice, acceptance of gratuities, that could still be prosecuted.
- The decision as to whether or not classified information can be declassified for disclosure at a criminal trial is a Presidential decision. The Classified Information Procedures Act sets up a process under which that decision is made. The Independent Counsel has indicated that he will defer to the recommendation of the intelligence community that the information not be disclosed, although he very much wants to try to convince the judge that the information is irrelevant. We hope that he is successful, but we very much suspect that he will not be successful. Accordingly, next week or the following week, the judge may well order that the broad conspiracy counts against North be severed because the government will not publicly disclose certain information. This was not an easy decision to make from a political or legal standpoint, but it was a clear decision from a national security standpoint.

4

TALKING POINTS FOR JULY 29, 1988 MEETING

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THE WHITE HOUSE

WASHINGTON

MEETING OF
HEADS OF DEPARTMENTS AND AGENCIES
AFFECTED BY POTENTIAL CLASSIFIED INFORMATION
DISCLOSURES IN U.S. V. NORTH

AGENDA

I. Introduction	Powell
II. Case Update	White House Counsel
III. Classified Information Briefing	CIA/NSA
IV. Department and Agency Decisions re Disclosure	Review/approve
V. Briefing of Independent Counsel	Discuss/assign
- Talking points	
- Attendees	
VI. Briefings of Congressional Committee	Discuss/assign
VII. Summary	Powell

[
- TALICW6 PTS
- Pres Guidance
]

THE WHITE HOUSE
WASHINGTON

Date: August 5, 1988

FOR: A.B. Culvahouse, Jr.

FROM: **WILLIAM J. LANDERS**
Associate Counsel to the President

- ☐ Action
 - ☐ Your Comment
 - ☐ Let's Talk
 - ☒ FYI
-

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA)
)
 v.) Criminal No. 88-0080-02
)
OLIVER L. NORTH)

ORDER

Independent Counsel and North each having requested certain continuances and sought further time to complete discovery relating primarily to the conspiracy counts, and it appearing that these requests should be granted in part and that other action is required by the Court in the light of other related matters brought to its attention in papers filed subsequent to argument on the continuance motions, it is

ORDERED:

(1) Independent Counsel shall advise the Court by a formal filing when all discovery presently ordered by the Court has been completed, which shall be no later than October 10, 1988. Independent Counsel's severance motion is moot.

(2) North shall file any and all remaining pretrial motions no later than October 10, 1988.

(3) North's CIPA § 5 notices scheduled for hearing August 8, 1988, are stricken as wholly insufficient, but without prejudice if an appropriate filing is made on November 14, 1988. This filing will be subject to preclusion if necessary particularization is again omitted and shall cover North's entire

007809

CIPA § 5 notices directed to all aspects of his case.

- (4) The August 8, 1988 in camera hearing is cancelled.
- (5) The August 15 and 22, 1988 dates are vacated.
- (6) The September 20, 1988 trial date is cancelled.

August 5, 1988.


UNITED STATES DISTRICT JUDGE