

THE LESSONS OF IRAN-CONTRA 2.0

In “honor” of the 25th Anniversary of the press conference admitting to Iran-Contra on Friday, National Security Archive liberated memos an aide to Special Prosecutor Lawrence Walsh, Christian Mixter, wrote assessing the criminal liability of Reagan and Poppy Bush. The report found that a loophole Ed Meese suggested—basically using National Security Act to trump the Arms Control Export Control Act—would make it difficult to prosecute Reagan for hiding transfers of money.

On Reagan, Mixter reported that the President was “briefed in advance” on each of the illicit sales of missiles to Iran. The criminality of the arms sales to Iran “involves a number of close legal calls,” Mixter wrote. He found that it would be difficult to prosecute Reagan for violating the Arms Export Control Act (AECA) which mandates advising Congress about arms transfers through a third country—the U.S. missiles were transferred to Iran from Israel during the first phase of the operation in 1985—because Attorney General Meese had told the president the 1947 National Security Act could be invoked to supersede the AECA.

As the Iran operations went forward, some of Reagan’s own top officials certainly believed that the violation of the AECA as well as the failure to notify Congress of these covert operations were illegal—and prosecutable. In a dramatic meeting on December 7, 1985, Secretary of Defense Caspar Weinberger told the President that “washing [the] transaction thru Israel wouldn’t make it legal.” When Reagan responded that “he could answer charges of illegality but he couldn’t

answer charge that 'big strong President Reagan passed up a chance to free hostages," Weinberger suggested they might all end up in jail. "Visiting hours are on Thursdays," Weinberger stated. As the scandal unfolded a year later, Reagan and his top aides gathered in the White House Situation Room the day before the November 25 press conference to work out a way to protect the president from impeachment proceedings.

And you couldn't prosecute Reagan for lying to the American people because doing that is not a crime.

Mixter also found that Reagan's public misrepresentations of his role in Iran-Contra operations could not be prosecuted because deceiving the press and the American public was not a crime.

As to Poppy, he was intimately involved in all the same close calls decisions Reagan was, but since he was junior to Reagan, you couldn't prosecute him either. (The memo was written before it became clear Poppy had been hiding his diaries from the investigation.)

The NSA report on the documents—particularly this detail...

The memorandum on criminal liability noted that Bush had a long involvement in the Contra war, chairing the secret "Special Situation Group" in 1983 which "recommended specific covert operations" including "the mining of Nicaragua's rivers and harbors." Mixter also cited no less than a dozen meetings that Bush attended between 1984 and 1986 in which illicit aid to the Contras was discussed.

... Reminded me of Sy Hersh's description of a

meeting at which the Iran-Contra dead-enders in the W Administration plotted how to improve on Iran-Contra.

They set about and talking about how to sabotage oversight. And what is the model for sabotaging oversight? The model turned out to be the Bill Casey model. The Congress' hold, in the Constitution, over the executive is about money. Everything that's being spent must be approved by the Congress—even the most secret operation, there are secret committees in Congress that review it. And so the answer was, "let's run operations off the books. Let's find money elsewhere and the hell with Congress." And it was talked about as "this is the way to finally put those creeps in place." The contempt for Congress in the Bush-Cheney White House was extraordinary, just extraordinary. And it came out of Iran-Contra.

[snip]

So what makes Bush-Cheney so interesting is that at some point, they had a meeting after 9/11 of the people who were in, in the White House, who worked in Iran-Contra—that would be Abrams and Cheney, and there were others involved who were also in the White House and they had a meeting of lessons learned, I'm telling you literally took place. They had a meeting with a small group of people who worked for Reagan and for George Bush when he was Vice President, his father, George Herbert Walker Bush, anyway.

And at the meeting, here were some of the conclusions: that the Iran-Contra thing, despite the disasters, proved you could do it, you could run operations without Congressional money and get away with it.

The reason they got exposed, and this is what was said in the White House, there were too many people that knew too much—too many people in the military knew in '85 and '86, and too many people in the CIA knew, and Oliver North who you might remember what a great witness he was, was the wrong person to be running that. So what you do is you tell nobody. One of things Cheney wrote in his dissent to the Iran-Contra committee, Cheney said, “my god, Reagan was telling too many people too much, don't tell Congress anything. You don't tell the CIA much, you don't tell the military much, and YOU, Mr. Vice President, you're the Ollie North for this. We're going to run operations off the books and you're going to honcho them.” And this is what they did. And this is what is still left to be reported, this kind of stuff, this kind of extraordinarily contemptuous attitude towards the Constitution. [my emphasis]

Turns out Cheney's former boss, Poppy, was involved intimately in the original, as Cheney likely knew from his role in covering up Iran-Contra on the Congressional investigation of it. Though interestingly, his bio focuses on his role in briefings as member of Republican House leadership. Cheney happened to be briefed in John Poindexter's first alert to Congress of the scandal on November 12 because “apparently [he] was the only member of the House Republican leadership still in Washington during the postelection period.” Cheney also claims that at two meetings with just the Republican House leadership in December, Reagan lied about his knowledge of the events.

One more thing stuck out at me as I review the NSA report. Check out the documents recording efforts in the White House to cover up illegal money transfers (these were previously declassified, though NSA posted them as the most

important declassified documents associated with their Iran-Contra work). Several of them (though not Ollie North's memo laying out the plan to divert money from arms sales to the Contras) are classified just "Secret." In this day and age, there's no way such discussions at the White House would be classified just Secret.

Another thing the Executive has learned since Iran-Contra: to overclassify all evidence of such plots from the start.