



Chapter 28

George Bush

George Bush served as vice president through the Reagan presidency from 1981 to 1989. In January 1989, he succeeded Reagan as President. It was in his capacity as President that Bush committed what will likely become his most memorable act in connection with Iran/contra. On December 24, 1992, twelve days before former Secretary of Defense Caspar W. Weinberger was to go to trial, Bush pardoned him.¹ In issuing pardons to Weinberger and five other Iran/contra defendants, President Bush charged that Independent Counsel's prosecutions represented the "criminalization of policy differences."

¹ President Bush also pardoned former National Security Adviser Robert C. McFarlane, former Assistant Secretary of State Elliott Abrams, former CIA Central American Task Force Chief Alan D. Fiers, Jr., former CIA Deputy Director for Operations Clair E. George, and former CIA Counter-Terrorism Chief Duane R. Clarridge. The Weinberger pardon marked the first time a President ever pardoned someone in whose trial he might have been called as a witness, because the President was knowledgeable of factual events underlying the case.

The criminal investigation of Bush was regrettably incomplete. Before Bush's election as President, the investigation was primarily concerned with the operational conspiracy and the careful evaluation of the cases against former National Security Adviser John M. Poindexter and Lt. Col. Oliver L. North of the National Security Council staff, prior to their indictment in March 1988. This included a review of any exculpatory material that might have shown authorization for their conduct. In the course of this investigation, Vice President Bush was deposed on January 11, 1988.

A year later Bush was President-elect, and OIC was engaged in the intensive preparation for the trial of North, which began on January 31, 1989. After the completion of the trials of North and Poindexter and the pleas of guilty of retired Air Force Maj. Gen. Richard V. Secord and Albert Hakim, OIC broadened its investigation to those supporting and supervising Poindexter and North. This investigation developed a large amount of new material with which it intended to question President Bush. His interrogation was left to the end because, as President, he obviously could not be questioned repeatedly. It was Independent Counsel's expectation that he would be available after the completion of the 1992 Presidential election campaign.

In light of his access to information, Bush would have been an important witness. In an early interview with the FBI in December 1986 and in the OIC deposition in January 1988, Bush acknowledged that he was regularly informed of events connected

with the Iran arms sales, including the 1985 Israeli missile shipments.² These statements conflicted with his more extreme public assertions that he was "out of the loop" regarding the operational details of the Iran initiative and was generally unaware of the strong opposition to the arms sales by Secretary of Defense Weinberger and Secretary of State George P. Shultz. He denied knowledge of the diversion of proceeds from the arms sales to assist the contras.³ He also denied knowledge of the secret contra-resupply operation supervised by North.⁴

² Bush, FBI 302, 12/12/86; Bush, OIC Deposition, 1/11/88. But Bush's recollection was very general and he did not recall specific details of meetings in which the Iran arms sales were discussed.

³ Bush, FBI 302, 12/12/86, p. 3; Bush, OIC Deposition, 1/11/88, p. 17. During his interview with the FBI, Bush said he would be willing to take a polygraph examination concerning his lack of prior knowledge of the diversion.

⁴ Bush, OIC Deposition, 1/11/88, p. 154.

In 1991 and 1992, Independent Counsel uncovered important evidence in the form of withheld documents and contemporaneous notes that raised significant questions about the earlier accounts provided by high Administration officials. The personal diary of Vice President Bush was disclosed to Independent Counsel only in December 1992, despite early and repeated requests for such documents. This late disclosure prompted a special investigation into why the diary had not been produced previously, and the substance of the diary.

Following the pardons, Bush refused to be interviewed unless the interview was limited to his non-production of his diary and personal notes. Because such a limited deposition would not serve a basic investigative purpose and because its occurrence would give the misleading impression of cooperation where there was none, Independent Counsel declined to accept these conditions. A Grand Jury subpoena was not issued because OIC did not believe there was an appropriate likelihood of a criminal prosecution. Bush's notes themselves proved not as significant as those of Weinberger and Shultz aides Charles Hill and Nicholas Platt, and the statute of limitations had passed on most of the relevant acts and statements of Bush.

The Bush Diary

On December 11, 1992, Chester Paul Beach, Jr., associate counsel to President Bush, informed the OIC that a diary, kept by Bush, dating back to his vice presidency, had not been produced to Independent Counsel. It consisted of Bush's nightly dictation concerning the events of the day. Although the diary contained many personal and political observations, it also contained a substantial number of references to the events surrounding the Iran/contra matter and the subsequent investigation. Accordingly, the diary was responsive to at least two document requests sent to the White House by the OIC in 1987 and 1992.

Bush began in November 1986 keeping a daily "political diary" tracking his bid for the Presidency in 1988.⁵ Most of the dictation was transcribed by Betty Green, a secretary in the Vice President's Houston, Texas, office.⁶ She believed she first started transcribing the dictation in February 1987.⁷ Bush's Special Assistant, Don Rhodes, would receive cassette tapes from Bush at his residence and deliver them to Green in Houston.⁸ On a couple of occasions, Rhodes received transcripts from Green and returned them to Bush. Neither Rhodes nor Green knew what Vice President Bush did with the transcripts once he received them.

⁵ The first entry in the diary reads: "This is November 4, 1986, the beginning of what I hope will be an accurate diary, with at least five and maybe 15 minutes a day on observations about my run for the presidency in 1988." (Bush Diary, 11/4/86.) Prior to November of 1986, Vice President Bush did, on occasion, dictate his thoughts in conjunction with a particular historical event, such as the hospitalization of President Reagan in July 1985.

⁶ During his vice presidency, Bush had six offices in the following locations: the West Wing of the White House; the Old Executive Office Building; the Dirksen Senate Office Building; the Capitol; the Vice Presidential Residence; and Houston, Texas. The primary function of the Houston Office was to respond to public correspondence. (Presock, FBI 302, 3/17/93, p. 1.)

⁷ Green, FBI 302, 2/18/93, p. 2.

⁸ Rhodes, FBI 302, 2/18/93, pp. 2-4.

Jack Steel, the head of Bush's Houston office, knew Green was transcribing dictation for Bush and that it was personal, but he was not aware of the substance.⁹ Other than Bush, Green, Rhodes and Steel, there is no evidence that others knew of the existence of the diary prior to September 1992. Others knew that he would occasionally dictate his thoughts, but no one knew that it was part of a daily diary.¹⁰

⁹ Steel, FBI 302, 2/18/93, p. 2.

¹⁰ OVP Chief of Staff Craig L. Fuller recalled observing Bush occasionally dictating when he obviously was not working on correspondence. (Fuller, FBI 302, 2/19/93, p. 2.) Rose Zamaria, Special Assistant to President Bush, was aware that Bush made "sporadic" dictation of his thoughts, although she does not know when he began this practice. (Zamaria, FBI 302, 2/17/93, p. 2.) Another special assistant, Susie Peake, transcribed some Bush dictation in 1989 concerning his trip to China and again in 1991 concerning the Gulf War. (Peake, FBI 302, 2/18/93, p. 2.) Zamaria and Peake were not aware of Bush dictating a diary that dated back to November 1986.

The White House Response to OIC's 1987 Document Request

On March 27, 1987, OIC's request for the production of documents was circulated

throughout the White House complex, including the Office of the Vice President (OVP), by A.B. Culvahouse, counsel to President Reagan.¹¹ This document request represented the product of negotiations between the White House, the congressional Select Committees and the OIC to develop an omnibus document request.¹² A cover memorandum attached to the document request stated that the request included "all personal and official records" of the staff members of the White House, NSC, and the Executive Office of the President.¹³ The attached request explicitly identified relevant "notes," "diaries," and "audio tapes" among the materials required to be produced. As a result of the prior negotiations, the document request was limited to material from the period January 20, 1981 to January 2, 1987.¹⁴

11 Memorandum from Culvahouse to Assistants To The President, et al., 3/27/87, ARZ 003929-37. This document was generated, in part, in response to a letter from Independent Counsel to Culvahouse's predecessor, Peter J. Wallison, dated February 27, 1987. This letter forwarded the initial document request from the OIC to the Executive Branch.

12 Letter from Friedman to Wallison, 2/27/87, ARZ 004369-70.

13 Memorandum from Culvahouse to Assistants To The President, et al., 3/27/87, ARZ 003929-37.

14 Ibid.

Following the disclosure of the existence of the Bush diary, President Bush retained private counsel. In January 1993, his counsel conducted an internal investigation and reported that Bush did not recall reviewing the 1987 document request and was not aware that it called for the production of personal diaries.

There was, however, substantial evidence that a copy of the March 1987 document request was received by Vice President Bush, and that the requirements of the request, including the demand for personal materials and documents, were communicated to Bush by his counsel, C. Boyden Gray.

The memorandum circulated by Culvahouse was received by Craig L. Fuller in his capacity of chief of staff for the OVP.¹⁵ On April 1, 1987, he delegated responsibility to Gray and John P. Schmitz, deputy counsel to the Vice President.¹⁶ On April 8, 1987, Gray and Schmitz circulated a memorandum to the "heads" of the OVP offices.¹⁷ They stated that the document request "covers all personal and official records of OVP staff members."

15 Memorandum from Fuller to Gray, 4/1/87, ARZ 003928.

16 Ibid.

17 Memorandum from Gray/Schmitz to Heads of OVP Offices, 4/8/87, ARZ

003486-95.

The Vice President's West Wing Office contained the largest collection of what would be considered Bush personal materials. Patty Presock, an administrative assistant to Bush, was considered the "head" of this office, with the only other staff person being Susie Peake. On April 8, 1987, Presock received a memorandum from Schmitz following up on an earlier telephone conversation and forwarding a copy of the document request.¹⁸ The last sentence of the memorandum stated:

18 Memorandum from Schmitz to Presock, 4/8/87, ARZ 004336.

Boyden will talk to the Vice President about the extent to which this request applies to your office's records.

Beach, in an interview with the OIC, stated that Gray informed him on December 12, 1992 that he had this conversation with Bush in 1987.¹⁹

19 Beach, FBI 302, 3/9/93, pp. 4-6. Beach's recollection of the conversation with Gray is memorialized in contemporaneous notes Beach made during the conversation on December 12, 1992. (Beach, "Notes of Interviews Re V.P. Diary Excerpts.") This conversation, and the corresponding notes, were the product of an "internal investigation" conducted by Beach following the discovery of the Bush diary.

Others support Beach. Fuller said he understood that Bush reviewed the document request in 1987, although Gray was the one handling that issue.²⁰ Fuller did not recall whether he, himself, provided a copy of the document request to Bush or whether it was done through Gray.²¹ The first Fuller learned that Bush did not recall seeing the document request was in his recent interview with Bush's private lawyers.²²

20 Fuller, FBI 302, 2/19/93, pp. 3-4.

21 Ibid.

22 Ibid.

Bush's general awareness of the problem of personal notes and diaries is documented in a January 30, 1987, Bush handwritten note, produced from a set of files known as his "chron files."²³ It includes the statement "memo from counsel -- all notes, memos, documents etc."²⁴ This predated the March 1987 document request, but followed a narrower early document request of the Attorney General.

23 The "chron files" consist of chronologically sorted daily files of various documents and were maintained by Susie Peake. Chron file documents include correspondence, memoranda, calendars, phone logs and personal notes written or typed by Vice President Bush.

24 Bush Note, 1/30/87, ARZ 000772.

This Bush note was followed by a February 2, 1987, memorandum from Fuller to White House Chief of Staff Donald T. Regan concerning the production of the Reagan handwritten notes and diary. Fuller wrote "it's only a matter of time until someone calls for the 'diary.'" 25 The memorandum discussed the need to develop a plan to "satisfy" the OIC and congressional investigators. The memorandum was initialed by Bush and stamped "V.P. Has Seen." 26

25 Memorandum from Fuller to Regan, 2/2/87, ARZ 000787.

26 Collamore, FBI 302, 3/12/93, p. 2.

Culvahouse did not recall Bush being present at any meetings relating to the 1987 document request.²⁷ Culvahouse did recall discussions with Gray concerning Bush "notes." 28 According to Culvahouse, the OVP was handling the production of Bush "notes" with the same sensitivity, and following the same procedures, as the White House was using to handle the Reagan diary.²⁹

27 Culvahouse, FBI 302, 3/19/93, p. 4-5.

28 Ibid.

29 Ibid.

Jack Steel and Betty Green of the Houston office both recalled receiving the 1987 document request but did not feel that the documents in the Houston office, including the tapes, were relevant.³⁰ Don Rhodes, head of Bush's Dirksen Building office, received a copy of the 1987 request, but did not believe that the tapes would be relevant.³¹

30 Steel, FBI 302, 2/18/93, pp. 3-4; Green, FBI 302, 2/18/93, p. 3.

31 Rhodes, FBI 302, 2/18/93, p. 5.

Related to the issue of the diary was the production of the chron files. When the Iran/contra document request was circulated, Bush instructed Peake to "just give them everything." 32 Peake boxed up the entire collection of chron files and put them in Gray's office. Subsequently, the personal notes were segregated from the other documents in the chron files in anticipation of production of the chron files to the OIC.

32 Peake, FBI 302, 2/18/93, p 3.

Pursuant to negotiation between Gray and the OIC, Bush's November and December 1986 chron files, responsive to the 1987 document request (that cut off on January 2, 1987), were made available for review just prior to Vice President Bush's deposition in January 1988.³³ The relevant personal notes for this period were excerpted by Gray and were also made available at this time.

33 Prior to the discovery of the Bush diary, many of the members of Bush's staff referred to the chron files as a "diary." (Beach, FBI 302, 3/9/93, p. 7.) In fact, prior to the disclosure of the Bush diary, the White House Counsel had acknowledged that the chron file "diary" was responsive to OIC document requests calling for production of a "diary." (Memorandum from Rehnquist to File, 7/10/92, ARZ 003193-94.)

The White House Response to OIC's 1992 Document Request

On June 30, 1992, the OIC transmitted a broader document request to the White House calling for the production of any diaries kept by George Bush during the period May 1, 1985, through December 1, 1987.³⁴ The primary effect of the 1992 Request was to extend the earlier request for diaries through December 1, 1987. This request received considerable attention within the White House during the summer of 1992. Various members of the White House Counsel's office wrote memoranda and held meetings discussing how the White House should respond.

34 Letter from Barrett to Rehnquist, 6/30/92, ARZ 004164A-65.

There is no evidence that anyone involved in formulating the White House response knew of the existence of the Bush diaries at the time. Each has stated that the discussions focused on the chron files from the period January 3, 1987 through December 1, 1987. These discussions ended when the OIC, on September 15, 1992, delayed the response date until after the November 3, 1992 Presidential election.³⁵

35 Memorandum from Beach to Gray, 9/15/92, ARZ 003527-28.

In a memorandum to Gray and Schmitz written on September 15, 1992, Beach told them of the extension of time to respond to the 1992 request.³⁶ It also stated:

36 Ibid.

[The OIC has] indicated, as a "heads-up," that they have a "wealth of new information" since they last interviewed the President four years ago, and that they would probably ask that he respond to some additional interrogatories -- after the election.³⁷

37 Ibid. (emphasis in original). The White House counsel never interpreted the September 15th call extending the document-request response date to imply that the OIC had dropped its June 1992 request. To the contrary, the White House understood that the request was "deferred" until after the election, when the White House was expecting the OIC to call about it. (Beach, FBI 302, 3/9/93, p. 12.)

Prior to this call from the OIC, the OIC requested full access to whatever materials existed. The White House wanted to provide only limited access to relevant extracts that had been agreed upon in 1987 with respect to the Reagan diaries and the 1986 Bush chron files.³⁸ The gist of White House internal discussions was a decision that

Gray should actually begin the process of reviewing the 1987 chron files. According to Bush counsel Janet Rehnquist, Gray was going to conduct this review alone.

38 Memorandum from Rehnquist to file, 7/10/92, ARZ 003193-94.

Gray apparently began such a review of the 1987 chron files in the late summer of 1992. Witnesses (including Beach, William Lytton and Rehnquist) stated that Gray had the 1987 chron files in his office beginning some time during the summer of 1992.

Discovery of the Dictated Diary Transcript

The Bush diaries did not become known to anyone other than Bush, Rhodes, Steel and Green prior to September 1992. Sometime between September 18 and September 24, 1992, the diary transcripts were discovered by Presock while she was conducting an inventory of the Bush family safes located on the third floor of the White House residence.³⁹ The diary consisted of a typed transcript, which had been organized in binders. Presock knew the diary notes were important to Iran/contra investigators based on a request she had received a few months earlier for similar documents.⁴⁰

39 Presock, FBI 302, 1/19/93, pp. 1-3.

40 Presock recalled a search for a Bush diary in July 1992 by the White House Counsel's office. She believed it was in response to the OIC request. Presock did not recall any diary being found at that time. (Presock, FBI 302, 1/19/93, pp. 4-5.)

Presock told President Bush of her discovery early on the morning of September 25. This meeting took place in Rose Zamaria's office adjacent to the Oval Office. Presock pointed out to President Bush that the diary transcript made repeated references to Iran/contra. President Bush took little interest and stated ``let's call Boyden and he can sort it out." ⁴¹ Later that day, Gray came to Presock's office and reviewed the diary transcript.⁴²

41 Ibid., p. 6.

42 When interviewed by Beach in December 1992, Gray thought he recalled Presock saying she found the diaries in August, before the Republican Convention, and thought he might have learned of them prior to late September. (Beach, FBI 302, 3/9/93, p. 7.) However, Gray had no precise memory of the dates, and Presock had documentary evidence, along with Rose Zamaria's recollection, supporting the late-September date. (Ibid.)

Knowledge of the existence of the diary went no farther than Boyden Gray until December 1, 1992. At a December 1, 1992, White House counsel meeting attended by Gray, Schmitz, Beach and Lee Liberman, there was a brief discussion referring to document production.⁴³ Gray did not reveal that what had been discovered was a diary. He did refer to newly discovered material as containing Iran/contra ``stuff" and

new 1986 Bush ``stuff." At this meeting Gray asked Beach if he had heard from the OIC on its outstanding request. When Beach said no, Gray said that the White House should probably ``goose them on it," because there were some 1986 materials that had not been produced.⁴⁴

43 Liberman, FBI 302, 3/16/93, p. 7.

44 Ibid., p. 6.

Gray, himself, decided to delay notifying the Independent Counsel of the existence of the diaries.⁴⁵ Gray had his secretary type up diary excerpts relevant to Iran/contra for his staff to review.⁴⁶ These excerpts were reviewed on approximately Monday, December 7, 1992. The staff members concluded that the material was plainly relevant and should be produced.⁴⁷

45 Ibid., p. 11. No discussion took place, to Beach's knowledge. Clearly uncomfortable with the question, Beach carefully stated that he and his colleagues ``recognized that Boyden had made a difficult decision" regarding delayed notification.

46 Ibid., p. 4.

47 Ibid.

On December 9, 1992, the White House made its first attempt to inform the Independent Counsel of the existence of the Bush diary.⁴⁸ It was not until Friday, December 11, 1992, that Independent Counsel actually received the information.

48 Ibid.

Production of Documents From the White House

In 1993, the OIC requested certain documents relevant to the diary production and to Iran/contra generally. Bush's new private counsel took over the production of official documents from the White House. They adopted a very narrow approach to the OIC document request, allowing production of only those materials that related to the production of the diary. They claimed that all other documents requested were protected by the attorney-client privilege.⁴⁹

49 Letter from Sollers to Gillen, 1/27/93.

The OIC also requested relevant documents of each witness interviewed regarding document production. Every witness complied except Schmitz, who asserted that his documents were privileged work product.

Bush's counsel asserted that the failure to produce Bush's November and December 1986 diary notes was inadvertent. However, one Bush 1987 diary entry raises questions about Bush's willingness to cooperate fully with investigators. During 1987

Secretary of State George P. Shultz had turned over to investigators certain notes detailing personal meetings with President Reagan that were relevant to Iran/contra. When Bush became aware of Shultz's note production, he responded as follows in his personal diary:

Howard Baker in the presence of the President, told me today that George Shultz had kept 700 pages of personal notes, dictated to his staff . . . Notes on personal meetings he had with the President. I found this almost inconceivable. Not only that he kept the notes, but that he'd turned them all over to Congress . . . I would never do it. I would never surrender such documents and I wouldn't keep such detailed notes.⁵⁰

50 Bush Diary, 7/20/87.

This note, which was not among selected diary notes Bush released publicly in 1993, would have been used to question Bush about his cooperation with investigators if he had consented to the requested Independent Counsel deposition in 1993.

Request to Interview Boyden Gray and John Schmitz

Much of the evidence relating to the failure to produce the diary focuses on Gray, Bush's counsel as Vice President and as President, and his deputy, Schmitz. On January 11, 1993, OIC wrote Gray and Schmitz requesting production of relevant documents and requesting an interview.⁵¹ Subject to a non-waiver agreement, Gray and Schmitz produced their appointment calendars and a folder of documents.⁵² Schmitz kept a personal diary that covered the relevant period (1987-1992), but he refused to produce it, asserting that any relevant excerpts were protected as work-product.

51 The document request was limited to "personal and official documents and other materials that relate in any way to your service in the Executive Branch from 1986 through the present as it relates to any aspect of the Iran/contra matter, including document requests from this Office or any other Iran/Contra investigation." (Letters from Harleston to Gray/Schmitz, 1/11/93.)

52 The non-waiver agreement stated:

This review will not waive and will be without prejudice to any privilege against disclosure that may exist with respect to any of the documents, including the attorney-client privilege.

(Letter From Harleston to Willard, 2/10/93.)

Gray and Schmitz finally refused to be interviewed by Independent Counsel. The OIC had been willing to limit the scope of the their interviews to questions directly related to the timing of the production to the OIC of President Bush's diary tapes and transcripts for periods prior to 1988 and the production of the chron files.⁵³ In

addition, the OIC agreed to a non-waiver of any privilege of Bush, excepting the Fifth Amendment privilege against self-incrimination.⁵⁴

53 Letter from Harleston to Willard, 3/23/93.

54 Ibid.

During the negotiations with Gray and Schmitz, the OIC learned that their lawyer, Richard Willard, had been consulted regarding the production of Bush documents prior to Gray's revelation of the Bush diary.⁵⁵ Lee Liberman, an associate counsel to the President, stated in an interview, that she and Beach had consulted Willard in December 1992 concerning the production of the diary.⁵⁶

55 The OIC's concern over a potential conflict with Willard serving as Gray's and Schmitz's attorney stems primarily from a Janet Rehnquist note of a conversation she had with Willard. The note reads:

Richard Willard:

- Right to be concerned
- Obstructing
- Covering up
- process has been sloppy over the years
- not atty client or work product materials
- make this kind of material in a Special way
- shakier

(Rehnquist Note, ALU 0141477.)

Rehnquist had a poor memory of this conversation; her note is not dated. She believed it related to the 1992 Request, but was essentially guessing when she tried to interpret the phrases. But Rehnquist clearly remembered that she did not learn of the Bush diaries until she read about them in the newspapers. This conversation with Willard, then, does not relate to the diaries. (Rehnquist, FBI 302, 3/17/93, pp. 12-13.)

56 Liberman, FBI 302, 3/16/92, p.11. In fact, Liberman stated that Gray put Willard in contact with Beach and her. (Ibid.) It was from Willard that Liberman first learned that the ``stuff'' Gray had discovered was in fact the Bush diary. (Ibid.)

Willard was thus potentially a witness. The OIC asked to question Willard before he attended the interviews of Gray and Schmitz to determine whether a conflict existed.

Willard refused to be interviewed by the OIC and his clients refused to be interviewed without his presence as counsel.⁵⁷ Willard claimed that his involvement in the White House production of the diary was solely as counsel to Gray and Schmitz,⁵⁸ and subject to work-product protection.⁵⁹

⁵⁷ Letter from Willard to Harleston, 3/29/93, 026101.

⁵⁸ Ibid.

⁵⁹ Ibid.

The OIC then agreed to allow Willard to be present during the interviews of Gray and Schmitz.⁶⁰ Gray and Schmitz still refused to be interviewed,⁶¹ claiming that the characterization of Willard as a potential witness could "unfairly cast doubt on the legitimacy of the proposed interviews."⁶² Finally, they insisted upon a non-waiver provision that extended to any privilege held by Gray and Schmitz as well as President Bush.⁶³ Such a non-agreement would have included the Fifth Amendment privilege against self-incrimination and would essentially allow Gray and Schmitz to testify under a grant of immunity. The OIC refused to agree.⁶⁴ Gray and Schmitz refused to consent to an interview.⁶⁵

⁶⁰ Letter from Harleston to Willard, 4/8/93.

⁶¹ Letter from Willard to Harleston, 4/16/93, 026988.

⁶² Ibid.

⁶³ Ibid.

⁶⁴ Letter from Parsigian to Willard, 4/21/93, 027075.

⁶⁵ This was not the OIC's first encounter with non-cooperation on the part of Gray. In a May 23, 1991, FBI interview regarding Donald Gregg, Gray asserted on behalf of President Bush attorney-client privilege to many of the questions asked involving conversations between Gray and other members of the OVP staff. (Gray, FBI 302, 5/23/91.)

Interview of President Bush

The OIC informed the White House in the summer of 1992 that based on new information it had obtained since last interviewing Bush in 1988, the OIC anticipated the need to ask President Bush to respond to further questioning.⁶⁶ The White House provided no response to this statement. While President Bush made numerous public statements extolling his cooperation with the Independent Counsel's investigation,⁶⁷ that, in fact, had not been the case: Inside the White House it appears he had little intention of cooperating with Independent Counsel. In August 1992, there were discussions among White House counsel about not allowing the OIC to interview

President Bush.⁶⁸ According to Janet Rehnquist:

66 The OIC did indicate that the questioning would probably be in the form of interrogatories. (Memorandum from Beach to Gray/Schmitz, 9/15/92, ARZ 003527-28.)

67 For example, in a September 11, 1992, Los Angeles Times article, Bush was quoted as stating: "I have nothing to explain. I've given every bit of evidence I have to these thousands of investigators. And nobody has suggested that I've done anything wrong at all." ("Iran-Contra Issue Haunts GOP Ticket," The Los Angeles Times, 9/11/92, p. A1.)

In 1988, Bush stated publicly: "The President and I cooperated fully with the various investigations, turned over thousands of documents and directed our staffs to do the same." ("There Never Was a Formal Meeting' on Iran Initiative" -- Vice President Bush's responses to Mary McGrory's questions, The Washington Post, 1/14/88, p. 2.)

In 1989, Bush stated publicly: "Certainly, I would see that if any documents are in control of this administration, relevant documents, that we would live assiduously by those guidelines . . . set up to determine what documents would be made available." ("Bush Doubts Contra Files Withheld," The Washington Times, 4/21/89, p. 5A.)

68 Rehnquist, FBI 302, 3/17/93, p. 9.

This matter was discussed among Lytton, Schmitz, Gray and Rehnquist. Their position was they were going to tell the OIC to "pound sand" on the Bush interview issue. Their position was that interviews had already been done, that an election was going on and that enough was enough. There was no discussion about how the newly-revealed Caspar Weinberger material that had come to light might justify a new interview.⁶⁹

69 Ibid.

The White House remained cognizant of Independent Counsel's interest in questioning Bush through the fall of 1992.⁷⁰ Following the disclosure of the Bush diary in December 1992, the OIC reiterated that interest.⁷¹ In late February 1993, Bush informed Independent Counsel of his unwillingness to be deposed. Specifically, his counsel set forth six professed obstacles preventing a deposition of the kind OIC sought.⁷² The most serious of his objections was his unwillingness to answer questions except regarding non-production of his diary. This position essentially denied the OIC the opportunity to question Bush on issues pertaining to his knowledge of Iran/contra.

70 Memorandum from Beach to Gray/Schmitz, 11/4/92, ARZ 003525.

71 On December 14, 1992, Deputy Independent Counsel Craig A. Gillen informed

Paul Beach, Associate Counsel to the President, that it would probably be necessary for the OIC to depose President Bush. (Letter from Gillen to Sollers, 2/23/93.) On January 5, 13 and 15 and February 9, 1993, Gillen informed King & Spalding, counsel for President Bush, of the outstanding request to depose the President. (Ibid.)

72 The six reasons for not agreeing to a deposition addressed the following: (1) who would conduct the deposition; (2) the scope of the deposition; (3) the imposition of a time limitation; (4) the use of interrogatories in lieu of a deposition; (5) the location; and (6) assurances concerning the purpose of the inquiry and Independent Counsel's intentions with regard to President Bush. (Letter from Sollers to Gillen, 2/24/93.)

There remained the alternative of a Grand Jury subpoena. Independent Counsel concluded that this recourse should not be used unless it was reasonably likely to lead to a criminal prosecution. It was important to avoid the appearance of Grand Jury use to obtain material for a report. It was also important to avoid any appearance of retaliation for the pardon of Weinberger. Under the circumstances, particularly because of the passage of time, it was decided that a Grand Jury subpoena would be inappropriate.

Remaining Questions for President Bush

Independent Counsel's continuing investigation exposed evidence that called into question previous statements made by Vice President Bush concerning his knowledge of and involvement in the Iran/contra matter. The purpose of a second interview with Bush was to resolve inconsistencies. The second interview would have focused primarily on these areas:

1. The 1985 arms sales to Iran through the Israelis, particularly the presidential briefings leading up to them, and the briefing and meetings leading to the January 7, 1986, meeting of the President and his senior advisers regarding a continuation of the Iran arms sales.
2. Bush's meeting with Israeli official Amiram Nir in July 1986, particularly focusing on Secord's recollection that after Bush's report of this meeting, Reagan authorized the resumption of the Iran arms sales.⁷³

73 Secord and Wurts, *Honored and Betrayed* (John Wiley & Sons 1992), p. 282.

3. The November 1986 period in which the President and his advisers tried to deal with the political uproar created by the public disclosure of the Iran arms sales. Bush would have been interrogated regarding contemporaneous notes of President Reagan's senior advisers, and his conversations with Attorney General Meese on this subject.
4. Bush's knowledge of or involvement in any quid-pro-quo arrangements with Central American or other countries in exchange for their support of the contras.

5. Bush diary entries concerning his national security adviser Donald P. Gregg and deputy Samuel J. Watson's statements denying that they informed Bush of contra-support activities.

6. The Vice President's contacts with North, particularly an August 6, 1986, meeting -- the period when Gregg alleged that he learned of Felix Rodriguez's role in North's contra-resupply operation -- and Gregg's August 8 and 12, 1986, meetings with representatives of agencies connected to contra resupply. Gregg denied reporting these meetings to Bush until December 1986, and Bush has stated that he did not learn of Rodriguez's role in the contra-resupply effort until then.

7. Bush's failure to produce until December 1992, the diary that Bush began creating in November 1986.

November 1986

An area of special concern in questioning Bush would have been based on the recently obtained notes of Weinberger, Regan, and others, which provided valuable insight into the November 1986 period and the actions of the Reagan administration officials as they attempted to deal with the disclosure of the Iran initiative. The notes and Bush's diary also shed light on the extent of the Vice President's involvement in those events.⁷⁴

⁷⁴ For example, Bush on November 5, 1986, noted in his diary:

On the news at this time is the question of the hostages. . . . [[D]iscussion of Bud McFarlane having been held prisoner in Iran. . . . I'm one of the few people that know fully the details, and there is a lot of flack and misinformation out there. It is not a subject we can talk about.

(Bush Diary, 11/5/86, ALU 0140191)

The question was whether high Administration officials in November 1986 sought to create a false and inaccurate account of the Iran arms sales to protect themselves and the President from allegations of possible illegality and a confrontation with Congress regarding President Reagan's deliberate disregard of statutory restrictions on arms sales to terrorist countries.

On November 10, 1986, Bush was present at a meeting of the President with his senior advisers when Poindexter described the Iran initiative as beginning in January 1986, not 1985.

On November 12, Bush was present at a briefing of the congressional leadership on the facts of the Iran initiative when Poindexter again repeated his false and incomplete account. When Sen. Robert Byrd asked Poindexter if any weapons had been shipped in 1985, Poindexter replied that there had been contacts but that no materiel had been

moved until 1986.⁷⁵

⁷⁵ Regan Notes, 11/12/86, ALU 0139132-49.

Bush had been present at McFarlane's 1985 intelligence briefings in advance of the November 1985 HAWK shipment. In his interview with the FBI in December 1986, Bush recalled having knowledge of 1985 shipment.⁷⁶ In his 1988 deposition with the OIC, he recalled the Israeli TOW shipments and also appeared to allude to the November 1985 HAWK shipment, stating that:

⁷⁶ Bush, FBI 302, 12/12/86, p. 2.

I do recall a third country landing rights situation. I remember that distinctly and what I remember, and this is fairly vague, but that there was an airplane that was supposed to land, pick up weapons, and fly to Israel -- I mean to Iran -- and once it was either airborne or landed over there, why then you were going to have this other half of this deal that I described, some facilitation of the release of hostages, not the actual release of them -- or more; I thought it was supposed to be more.⁷⁷

⁷⁷ Bush, OIC Deposition, 1/11/88, pp. 80-81. Bush also stated that the President was informed of the 1985 shipments.

So when Bush heard Meese at the November 24, 1986, meeting of senior Administration officials state that the November 1985 HAWK shipment was "[n]ot legal because no finding," and add that the "President g008not informed," ⁷⁸ Bush was in a well-informed position to know the President had known of this shipment.

⁷⁸ Weinberger Meeting Notes, 11/24/86, ALZ 0040669MM (emphasis in original).

Independent Counsel was also concerned whether in the November 1986 period there was an effort to coerce Shultz into becoming more supportive of the President's Iran arms sales policy and conforming his testimony to others', for example, President Reagan's insistence that the Iran initiative was not an arms-for-hostages exchange.⁷⁹

Earlier that month, Shultz unsuccessfully tried to persuade Bush to refrain from denying that the Iran initiative was an arms-for-hostages deal. On November 9, Shultz met privately with Bush and refuted Bush's public denial that there had been an arms-for-hostages exchange with Iran. In his book published in 1993, Shultz recalled the meeting and said he reminded Bush that he had been present when arms-for-hostages had been discussed.⁸⁰ Shultz recounted the meeting as follows:

⁷⁹ Address by the President to the Nation, 11/13/86, ALU 018811-14. News Conference by the President, 11/19/86, ALU 016817-27.

⁸⁰ Shultz, *Turmoil and Triumph* (Chas. Scribner's Sons 1993), p. 809.

I put my views to him: I didn't know much about what had actually transpired, but I

knew . . . such an action would never stand up in public. Bush admonished me, asking emphatically whether I realized that there are major strategic objectives being pursued with Iran. He said that he was very careful about what he said.

“You can't be technically right; you have to be right,” I responded. I reminded him that he had been present at a meeting [January 7, 1986] where arms for Iran and hostage releases had been proposed and that he had made no objection, despite the opposition of both Cap and me. “That's where you are,” I said. There was considerable tension between us when we parted.⁸¹

⁸¹ Ibid. (emphasis in original).

Bush noted the meeting with Shultz in his diary, stating that he was concerned about reports that Shultz might resign and that he felt “cut out” on the Iran initiative. Bush gave the following account:

Indeed, he [Shultz] had felt cut out. And, he was dealing from less than a full deck on the Iran situation. He distrusts not only North, but he feels that I'm in jeopardy . . . myself. He thought he had heard me say something that later proved to be a lie, and his advice to me as a person interested in my future, “don't get involved in this.”⁸²

⁸² Bush Diary, 11/9/86, ALU 0140194.

Bush's diary is replete with mentions of the behind-the-scenes intrigue regarding how to handle the growing political crisis over the disclosure of the Iran arms sales, with Shultz pushing for a public disclosure of the facts and Poindexter and Casey opposing this. By November 14, Bush and Regan were also pushing for a public disclosure of the facts. Bush's diary entry on November 14 notes:

I keep urging total disclosure, and not making statements that are not accurate. I know George Shultz feels this way. Also, being sure that our mechanical procedures inside the White House are proper. It leads me to feel, again, certainly for the future, that we should not have CIA Director as part of the cabinet; that all findings should be properly found. There's friction -- a little between Don [Regan] and Poindexter now.⁸³

⁸³ Ibid., 11/14/86, ALU 0140198-99.

By the next day, Bush observed in his diary that Shultz was again the topic of discussion. “[S]hultz . . . Don Regan whispered to me that we're having real problems with Shultz. That Shultz was not on board at all. I told him that I'd call him [Shultz] on Sunday.”⁸⁴ On November 16, Bush called Regan regarding his comments about Shultz the previous day:

⁸⁴ Ibid., 11/15/86, ALU 0140200.

I called him [Regan] today to see what he meant and he said that Shultz wanted to

come out and say, ``well, from now on, it would all be done in the State Department and no more arms of any kind to Iran." Regan's point is that this makes the President look like he was ``wrong". . . . I'm not sure that we've [seen] the end of all of this.⁸⁵

85 Ibid., 11/16/86, ALU 0140201.

By November 18, Bush recorded that two different sources were reporting that ``Howard Baker would be willing to be Secretary of State, and that he wouldn't run from that post against me [in the 1988 presidential race]. We'd been told this once before, a couple of years ago. I love Howard, but it does seem like the vultures are circling over George Shultz." ⁸⁶

86 Ibid., 11/18/86, ALU 0140202.

Bush noted that he met with the President privately the next day. ``We talked about the need to get the Shultz resignation stories in shape. In fact, there was friction between State and the White House. Shultz feeling he was closed out. The White House feeling that Shultz was cutting and running . . . separating himself out." ⁸⁷ On November 20, Bush again met privately with the Reagan:

87 Ibid., 11/19/86, ALU 0140203.

The President tells me that at lunch, ``I really had a shocker. Don Regan has just told me that George Shultz has told him Poindexter has to go or he goes." It doesn't sound like George, this kind of ultimatum. We talked at length and I suggested to the President that the only thing he could do was call a Monday meeting which he decided to do to get the key NSC players together and to get them all to lay it on the table and to just simply say, ``we're going to hammer this thing out and what are you upset about, George? What are you upset about, Poindexter?" The problem is -- and I showed him certain clippings -- that Poindexter, Don Regan and George are all out there with leaks and peddling their own line. Regan, for example, says, ``I'm a team player.["] Everybody at State rallies around George, and it gets him all upset. And, when Regan says, or uses the word ``negotiate" or allegedly makes some comment about Israel, everybody -- State and NSC -- gets upset with him.⁸⁸

88 Ibid., 11/20/86, ALU 0140204-05.

Bush continued his discussion of this meeting with the President in his diary notes on the following day. He noted that when the President told him that about Shultz's ultimatum, ``I told the President, `you simply cannot be held hostage. I love George Shultz. I want him to stay. It will hurt your short run. But, no President can have a Cabinet set the terms under which he will stay. It is impossible.'" In the same diary entry, Bush expressed concern about Poindexter: ``On Poindexter, I'm concerned because today -- on Friday -- some new revelation that there were arms shipped in September of '85. The President having said that none were and I don't know what that's all about, but I walked into Don Regan's at lunch today and he said, `well, there's

a new bomb shell.' " 89

89 Ibid., 11/21/86, ALU 0140206.

Bush and Regan had been aware of the September 1985 TOW shipment, as was the President. Thus the ``bombshell" was not the fact of the shipment, but that it had been made public.

Bush's diary entry for November 24 described the afternoon meeting of the President and his senior advisers. Unlike the notes of Weinberger and Regan, he did not record the substance of the meeting -- including Meese's report on his weekend inquiry and the possibility that the November 1985 HAWK shipment was in violation of law.

The Bush Diary

Had a final Bush interview occurred, the questioning regarding the non-production of Bush's diary would have focused on the decision of Bush and or Gray not to disclose the existence of the diary initially in April 1987, in response to OIC's document request, and to delay its ultimate production until December 1992. The questioning would have addressed Bush's familiarity with the 1987 OIC and congressional document requests, and his knowledge of the production of the Reagan diary in 1987. It would have sought an explanation of his previously described July 20, 1987, diary note condemning Shultz for producing Charles Hill's daily notes of Shultz's thoughts, discussions and activities.

It also would have covered Bush's diary entry of November 25, 1986, regarding a telephone call he had with North following his firing, and the substance of information he obtained from North and relayed to President Reagan regarding the fact that Israeli officials were extremely upset about the day's events.