UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Holding a Criminal Term

Grand Jury 91-1 Sworn in on January 16, 1991

UNITED STATES OF AMERICA	**Criminal No.** 92-0235
v.	**Grand Jury Original**
CASPAR W. WEINBERGER,	
Defendant.	**Violations:** **Title 18 U.S.C. § 1505** **(Obstruction of Congress)** **Title 18 U.S.C. § 1001** **(False Statement)** **Title 18 U.S.C. § 1621** **(Perjury)**

FILED IN OPEN COURT
JUN 1 6 1992
CLERK, U.S. DISTRICT COURT
DISTRICT OF COLUMBIA

I N D I C T M E N T

19308

COUNT I
(Obstruction of Congress)

Introduction

1. From 1981 to November 1987, the defendant, CASPAR W. WEINBERGER, was the Secretary of Defense and a statutory member of the National Security Council ("NSC").

2. At all times relevant to this Indictment, the Secretary of Defense was the head of the Department of Defense ("DoD").

3. At all times relevant to this Indictment, the NSC was a government entity established by the National Security Act of 1947, whose statutory members were the President of the United States, the Vice President, the Secretary of State and the Secretary of Defense. The NSC advised the President on the integration of domestic, foreign and military policies relating to the national security; facilitated cooperation among the military services and other departments and agencies of the government in matters involving the national security; and reviewed, guided and directed foreign intelligence and covert action activities.

4. Beginning with the overthrow of the Shah of Iran on or about January 16, 1979, and the seizure of the United States Embassy in Iran and its staff on November 4, 1979, relations between the United States Government and the Government of Iran were characterized by mutual hostility and tension. At all times relevant to this Indictment, the United States Government embargoed arms sales to Iran. In January 1984, Secretary of State George P. Shultz designated

Iran as a sponsor of international terrorism and, thereafter, the United States Government actively urged its allies not to permit the shipment of arms to Iran, in part because of its sponsorship of international terrorism and the continuation of the Iran-Iraq war.

5. In August 1985, Robert C. McFarlane, the Assistant to the President for National Security Affairs, briefed President Ronald Reagan, Secretary Shultz, and the defendant, CASPAR W. WEINBERGER, about an Israeli proposal to sell arms to Iran to obtain the release of Americans held hostage in Lebanon. The defendant, CASPAR W. WEINBERGER, and Secretary Shultz objected to the plan and advised the President against it. This plan and subsequent efforts to obtain the release of the hostages through the sale of arms to Iran became known as the Iran initiative.

6. In August and September of 1985, United States Government officials were informed that Israel had shipped 508 United States-supplied TOW anti-tank missiles to Iran with the expectation that the United States Government would provide Israel with replacement TOW missiles. Following these Israeli TOW shipments to Iran, the Reverend Benjamin Weir, an American held hostage in Lebanon, was released from captivity.

7. On November 9, 1985, Mr. McFarlane told the defendant, CASPAR W. WEINBERGER, about new negotiations with

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Iranians and Israelis involving the exchange of arms for hostages.

8. On November 10, 1985, Mr. McFarlane told the defendant, CASPAR W. WEINBERGER, that the current proposal involved the release of all American hostages and the transfer to Iran, through the Israelis, of HAWK anti-aircraft missiles.

9. On Tuesday, November 19, 1985, Mr. McFarlane asked the defendant, CASPAR W. WEINBERGER, to try to obtain 500 HAWK missiles for sale to Israel to "pass on" to Iran in return for which five hostages would be released on Thursday, November 21, 1985. Major General Colin L. Powell, the Senior Military Assistant to the defendant, CASPAR W. WEINBERGER, made efforts to determine whether 500 HAWK missiles were available and what legal requirements would apply to the sale. General Powell reported to the defendant, CASPAR W. WEINBERGER, that 500 HAWK missiles could not be sold to Israel or Iran without Congressional notification and that breaking the sale into several packages of 28 HAWKs each (to keep the value of each package under a $14 million Congressional notification threshold) would be a clear violation of law. The defendant, CASPAR W. WEINBERGER, provided this information to Mr. McFarlane.

10. On Wednesday, November 20, 1985, the defendant, CASPAR W. WEINBERGER, told Mr. McFarlane that he objected to the sale of arms for hostages. Mr. McFarlane

responded that the President had already decided to do it through Israel.

11. Later that day, Wednesday, November 20, 1985, Mr. McFarlane informed the defendant, CASPAR W. WEINBERGER, that the Israelis would sell 120 HAWKs to the Iranians, and that there would be a hostage release on Friday, November 22, 1985.

12. On or about Sunday, November 24, 1985, a cargo of 18 HAWK missiles was sent from Israel to Iran. United States Government officials were informed that the Iranians were dissatisfied with the cargo, and additional HAWK missiles were not sent.

13. On December 7, 1985, the defendant, CASPAR W. WEINBERGER, attended a meeting at the White House with President Reagan, Chief of Staff to the President Donald T. Regan, Secretary Shultz, Deputy Director of Central Intelligence John N. McMahon, newly-appointed Assistant to the President for National Security Affairs Vice Admiral John M. Poindexter, and Mr. McFarlane, who recently had resigned his position as Assistant to the President for National Security Affairs. Mr. McFarlane reviewed the development of the Iran initiative up to that point, including the TOW missile shipments prior to the release of the Reverend Weir and the November 1985 HAWK missile shipment. Mr. McFarlane then outlined a plan for additional sales of weapons through Israel to Iran to obtain the release of the remaining

American hostages. The defendant, CASPAR W. WEINBERGER, argued that the United States had an embargo in effect that made arms sales to Iran illegal, that the President could not violate the embargo, and that "washing" the transaction through Israel would not make it legal. President Reagan responded that he could answer charges of illegality but that he could not answer the charge that he had passed up a chance to free the hostages.

14. Following the December 7, 1985 meeting, President Reagan sent Mr. McFarlane to London to open negotiations with Iranian and Israeli representatives, without making any United States commitment to transfer arms.

15. On December 10, 1985, following Mr. McFarlane's return from London, the defendant, CASPAR W. WEINBERGER, attended a meeting at the White House with President Reagan, Chief of Staff Regan, Director of Central Intelligence William J. Casey, Admiral Poindexter, and Mr. McFarlane. At the meeting, Mr. McFarlane recommended that no more arms be sold to Iran, but he also reminded the group that the United States still had to replenish the 500 TOW missiles that Israel had shipped to Iran before the Reverend Weir was released.

16. On January 6, 1986, the defendant, CASPAR W. WEINBERGER, met with Admiral Poindexter, who outlined a new Israeli plan to sell weapons to Iran to obtain the release of

the American hostages. The defendant, CASPAR W. WEINBERGER, objected to the plan.

17. On January 7, 1986, the defendant, CASPAR W. WEINBERGER, attended a meeting at the White House with President Reagan, Vice President George Bush, Attorney General Edwin Meese, III, Director Casey and Secretary Shultz. At the meeting, the President favored the plan to sell missiles to Iran, through Israel, in exchange for the release of American hostages.

18. On January 17, 1986, President Reagan formally approved, by Presidential Finding, a covert plan in which the United States would sell the weapons to Iran through an American intermediary, rather than through Israel.

19. In furtherance of this plan, during February 1986, 1,000 TOW missiles were sold to Iran.

20. Between May and November 1986, additional weapons and related parts were sold to Iran, and two Americans held hostage in Lebanon were released.

21. In early November 1986, there were public reports that United States Government officials had engaged in arms-for-hostages deals with Iran.

22. On November 10, 1986, the defendant, CASPAR W. WEINBERGER, attended a White House meeting with President Reagan, Vice President Bush, Secretary Shultz, Attorney General Meese, Director Casey, Chief of Staff Regan, Admiral Poindexter, and Acting Deputy Assistant to the President for

National Security Affairs Alton G. Keel, Jr. Admiral Poindexter briefed the meeting about operational details of the Iran initiative, but he omitted mention of the November 1985 HAWK missile shipment and did not acknowledge any United States role in or approval of any shipments prior to the Presidential Finding of January 17, 1986.

23. On November 12, 1986, the defendant, CASPAR W. WEINBERGER, attended a briefing for Congressional leaders at the White House with the same officials who attended the November 10, 1986 meeting. Admiral Poindexter briefed the Congressional leaders about the Iran initiative but, once again, did not acknowledge any United States role in or approval of any 1985 shipments, including the November 1985 HAWK missile shipment. In response to a question by Senate Minority Leader Robert C. Byrd, Admiral Poindexter stated that the initial contacts with the Iranians had been in 1985 but there had been no transfer of material to Iran then because it took time to assess the contacts and issue a Finding.

24. On November 13, 1986, President Reagan addressed the nation and purported to set out the facts about the Iran initiative.

25. On November 19, 1986, President Reagan held a news conference about the Iran initiative. During the news conference President Reagan said "we, as I say, have had nothing to do with other countries or their shipments of arms

or doing what they're doing," and he denied that a third country had been involved in shipments of United States arms to Iran. Later that evening, President Reagan acknowledged that, in fact, a third country had been involved. But the President did not disclose that arms shipments had taken place in 1985, that the third country was Israel, or that he had approved any of the 1985 shipments.

26. During the period leading up to November 24, 1986, officials within the White House and other Executive branch agencies expressed repeated concern that the 1985 arms shipments to Iran, and in particular the November 1985 HAWK missile shipment, had been illegal.

27. On or about November 20, 1986, Abraham D. Sofaer, the Legal Adviser of the Department of State, objected to proposed testimony by Director Casey, which stated that no one in the United States Government had contemporaneous knowledge of the November 1985 HAWK missile shipment. Mr. Sofaer was aware of a contemporaneous note from November 1985 indicating that Mr. McFarlane had told Secretary Shultz about the impending shipment. Secretary Shultz supported Mr. Sofaer's efforts to prevent this false testimony.

28. From November 21 until November 24, 1986, Attorney General Meese interviewed some of the United States Government officials who had known about the Iran initiative. One of the central topics in these interviews was the extent

of knowledge of United States Government officials of the November 1985 HAWK missile shipment from Israel to Iran.

29. On Sunday, November 23, 1986, Prince Bandar bin Sultan, the Saudi Arabian Ambassador to the United States, met with the defendant, CASPAR W. WEINBERGER. Prince Bandar told the defendant, CASPAR W. WEINBERGER, that during a recent meeting with President Reagan's wife, Nancy Reagan, she had said that she thought Secretary Shultz had been disloyal to the President during the crisis resulting from the revelation of the Iran initiative and that he should be replaced as Secretary of State. Prince Bandar reported that he had then proposed to Mrs. Reagan that the defendant, CASPAR W. WEINBERGER, replace Secretary Shultz, and that Mrs. Reagan had commented favorably on that proposal.

30. On November 24, 1986, Attorney General Meese met at the White House with President Reagan, Vice President Bush, Secretary Shultz, Director Casey, Chief of Staff Regan, Admiral Poindexter and the defendant, CASPAR W. WEINBERGER. Mr. Meese told the group that the November 1985 Israeli HAWK missile shipment may have been illegal, but that the President did not know about the shipment at the time. At the end of the meeting, Mr. Meese asked whether anyone knew of anything else that had not been revealed. No one contradicted Mr. Meese's incorrect statement concerning President Reagan's lack of knowledge, although several of

those present, including the defendant, CASPAR W. WEINBERGER, had contrary information.

31. On November 25, 1986, Attorney General Meese announced at a press conference that proceeds generated from mark-ups in the sales of arms to Iran had been diverted to the Nicaraguan democratic resistance, also known as the Contras. In response to a question about the Iran initiative, Mr. Meese said that the President had not been informed about the November 1985 HAWK missile shipment until February 1986.

32. Following the November 25, 1986 press conference, several Congressional Committees conducted investigations and held hearings on these topics.

33. On December 17, 1986, the defendant, CASPAR W. WEINBERGER, testified about the Iran initiative in closed session before the United States Senate Select Committee on Intelligence. With regard to the November 1985 Israeli HAWK missile shipment to Iran, the defendant, CASPAR W. WEINBERGER, testified as follows:

> Q. In the period of time from approximately November 16th to November 21st of 1985, the President was in Geneva for the summit meeting with Mr. Gorbachev. And at or about that same time, one of the arms transfers to the Iranians was under way and there is some evidence that there was discussions [sic] at various highest levels relative to that. Do you have any reason to recollect being aware at that particular point in time of discussions?

A. No. I was not in Geneva at those meetings and I did not have any recollection of that. I know that may have been about the time I saw one of these first [intelligence reports] that I mentioned to you earlier. But that was all -- my impression was that the plan was not being put forward actively, was no longer being considered. And this was confirmed in my view in the President's reaction at the December 6th [sic -- December 7] meeting that I have mentioned.

* * *

A. . . . And certainly there was no discussion in that meeting [December 7, 1985] of any transfers that Israel or anybody else had been permitted to make or anything of that kind.

34. For many years, the defendant, CASPAR W. WEINBERGER, took daily notes of his activities. These handwritten notes contain an extensive record of what the defendant, CASPAR W. WEINBERGER, did on a daily basis, and include summaries of telephone conversations and meetings. During 1985 and 1986, the defendant, CASPAR W. WEINBERGER, took nearly 1,700 pages of daily notes. These daily notes contain, among other things, summaries of conversations and meetings described in paragraphs 7-11, 13, 15-17 and 29 of this Count of the Indictment. These notes disclose that in November 1985, in advance of the HAWK missile shipment to Iran, the defendant, CASPAR W. WEINBERGER, was told that President Reagan had authorized the shipment of HAWK missiles

to Iran, through the Israelis, in order to obtain the release of American hostages held in Lebanon.

35. During 1985 and 1986 the defendant, CASPAR W. WEINBERGER, also took hundreds of pages of notes during high-level meetings, in addition to the daily notes described in the preceding paragraph. These meeting notes contain, among other things, a record of what occurred at meetings described in paragraphs 15-17, 22, 23 and 30 of this Count of the Indictment. These meeting notes show that, a few days after the November 1985 HAWK missile shipment, the defendant, CASPAR W. WEINBERGER, informed President Reagan that such arms shipments were illegal, and that one year later, during the meeting of November 24, 1986 described in paragraph 30 above, Attorney General Meese expressed concern that the November 1985 shipment was illegal.

36. On January 6, 1987, the United States Senate, by Senate Resolution 23, established the Select Committee on Secret Military Assistance to Iran and the Nicaraguan Opposition ("Senate Select Committee"). On January 7, 1987, the United States House of Representatives, by House Resolution 12, established the Select Committee to Investigate Covert Arms Transactions with Iran ("House Select Committee"). The two Chambers instructed their respective Committees (collectively, "Select Committees") to work together and charged them with investigating, among other

things, any activity of any officer or entity of the United States Government relating to the Iran initiative.

37. On March 11, 1987, the defendant, CASPAR W. WEINBERGER, met with counsel to the Senate Select Committee and DoD General Counsel H. Lawrence Garrett, III. A Senate Select Committee staff memorandum prepared following the meeting states, in relevant part:

> Weinberger offered that some of his recollections of these matters were a bit fuzzy, and added "I have the deepest sympathy for the President's memory problem." He then added that he "should have done what Henry Kissinger did after every meeting, he would dictate a thorough memo of what transpired, which was used in writing his memoirs. For me, after I finish a meeting, I go off to another meeting." While Weinberger did not expressly deny that he kept diaries or dictated his thoughts about a day's events, with these comments he clearly left the impression that he did not make such notes or recordings.

38. On or about April 4, 1987, the Senate Select Committee requested that the DoD produce to it all documents relating to the Iran initiative, including "notes, ... diaries, ... or other such records, of attendance at, recollection of, or participation in, ... any meetings, discussions, conferences, or events pertaining to the Committee's inquiry, prepared by and/or in the possession of" certain individuals, including the defendant, CASPAR W. WEINBERGER.

39. On or about April 14, 1987, the House Select Committee requested that the DoD produce to it all documents

relating to the Iran initiative, including "calendars, logs, diaries, appointment books, records of meetings, and handwritten notes kept by or on behalf of" certain individuals, including the defendant, CASPAR W. WEINBERGER.

40. The defendant, CASPAR W. WEINBERGER, ordered the DoD Office of General Counsel to produce to the Select Committees documents responsive to the requests of the Select Committees. The defendant, CASPAR W. WEINBERGER, instructed senior officials in the DoD to comply with the requests, but withheld and concealed his daily notes and, with one exception, his relevant meeting notes. As a result, none of the defendant's, CASPAR W. WEINBERGER's, daily notes and only one of his relevant meeting notes were provided to the Select Committees.

41. On June 17, 1987, members of the Select Committees' staffs took deposition testimony under oath from the defendant, CASPAR W. WEINBERGER, in his office at the Pentagon. DoD General Counsel Garrett and DoD Assistant General Counsel Edward J. Shapiro also attended the deposition. One of the purposes of the questioning was to determine whether the defendant, CASPAR W. WEINBERGER, had kept notes. During the deposition, the defendant, CASPAR W. WEINBERGER, concealed the existence of his daily notes and the extent of notes he had taken during meetings in 1985 and 1986.

42. Pursuant to House Resolution 12, which established the House Select Committee, the June 17, 1987 deposition is deemed to have been taken in the District of Columbia.

43. During the June 17, 1987 deposition, the defendant, CASPAR W. WEINBERGER, made the following statements:

> Q. We have gone over a number of meetings?
>
> A. Yes.
>
> Q. Of course, your recollection is better on some and fainter on others.
>
> A. Yes.
>
> Q. Is there any way that you have of making a record of the highlights of meetings of this nature?
>
> A. Now?
>
> Q. No, then.
>
> A. No. There wasn't. I did dictate a memorandum on this particular one [referring to a November 10, 1986 meeting], but I've often said that I understand that Henry Kissinger made a memo of every meeting he ever attended and that enabled him to write his book rapidly. I wish I had done that with day one of the administration. I am usually getting ready for the next meeting and don't have time to write these memorandums. I took notes about this one and dictated this memorandum because it seemed to be important.

Q. Do you ever take notes that are not dictated or make jottings when you get back?

A. Yes, occasionally, but comparatively rarely. I don't know we kept those in any formal way. I don't think they have been filed or labeled. My handwriting is notoriously bad. I have trouble even reading it myself. Occasionally take a few notes, but not really very often.

Q. If there is any chance there are --

A. I think we made this examination and whatever there is is in our so-called C&D, Correspondence and Directives. They have been asked to paw through everything.

* * *

Q. Are you aware of any other potential source of -- that might be -- have made a record that might supplement your memory of some of these meetings?

A. Well, I don't really think of anything. We could paw through everything again. We have done that, I think, pretty well.

44. Thereafter, until he left the DoD, the defendant, CASPAR W. WEINBERGER, withheld the aforementioned notes. Thereafter, he deposited these notes in the Library of Congress in the District of Columbia, where public access to the notes was subject to his exclusive personal control.

45. It was material to the Select Committees' investigations to obtain any written materials, including contemporaneous notes, of the defendant, CASPAR W. WEINBERGER, that contained information relating to what the

President and other senior government officials had known or done in connection with proposals to ship arms to Iran in 1985, contributions to the Contras, and other topics within the scope of the investigation of the Select Committees.

THE GRAND JURY CHARGES:

46. From on or about March 11, 1987, up to and including August 3, 1987, the defendant, CASPAR W. WEINBERGER, acting unlawfully, willfully and knowingly did corruptly influence, obstruct and impede and endeavor to influence, obstruct and impede the due and proper exercise of the power of inquiry of the Select Committees in that, during the aforesaid time period, he caused the DoD not to provide to the Select Committees, in response to their document requests, handwritten notes relating to the Iran initiative and support for the Contras, by

a. withholding his daily notes and all but one of his relevant meeting notes from the Select Committees, and

b. concealing from the Select Committees the existence of these notes while professing to comply with the document requests of the Select Committees,

all with the intent to corruptly influence, obstruct and impede the due and proper exercise of the power of inquiry of the Select Committees.

(In Violation of Title 18, United States Code, Section 1505.)

COUNT II
(False Statement)

1. Paragraphs 1 through 45 of Count I of this Indictment are realleged and incorporated by reference.

2. At all times relevant to this Indictment, the Contras were insurgents engaged in military and paramilitary operations in Nicaragua.

3. From in or about December 1981 until on or about October 11, 1984, the United States Government, acting principally through the CIA, pursuant to written Presidential Findings, had provided the Contras with financial support, arms and military equipment, as well as with supervision and instruction, tactical and other advice, coordination, intelligence and direction.

4. On October 12, 1984, Public Law 98-473 was enacted. It prohibited funds available to the CIA, the DoD, and certain other agencies and entities of the United States from being obligated or expended in support of military or paramilitary operations in Nicaragua, stating in relevant part:

> During fiscal year 1985 no funds available to the Central Intelligence Agency, the Department of Defense, or any other agency or entity of the United States involved in intelligence activities may be obligated or expended for the purpose or which would have the effect of supporting, directly or indirectly, military or paramilitary operations in Nicaragua by any nation, group, organization, movement, or individual.

This provision of law was commonly known as the Boland Amendment.

5. On or about March 13, 1985, General John W. Vessey, Chairman of the Joint Chiefs of Staff, informed the defendant, CASPAR W. WEINBERGER, that Prince Bandar bin Sultan, the Saudi Arabian Ambassador to the United States, had stated that Saudi Arabia was contributing funds to the Contras. The defendant, CASPAR W. WEINBERGER, repeated this information to Mr. McFarlane.

6. On or about March 15, 1985, the defendant, CASPAR W. WEINBERGER, informed Director of Central Intelligence Casey and Deputy Director of Central Intelligence McMahon that he had heard that Prince Bandar had earmarked $25 million for the Contras, in $5 million increments.

7. During the summer of 1986, reports appeared in the press alleging that the Saudis had contributed money to the Contras as part of an informal arrangement connected with the sale of AWACs aircraft to Saudi Arabia. A July 27, 1986 article in the San Francisco Examiner cited intelligence sources who stated that the Saudi contribution "was but the latest example of a longstanding practice of financing U.S. covert operations with money set aside from foreign military sales." By letter dated August 12, 1986, Representative Dante B. Fascell, Chairman of the United States House of Representatives Committee on Foreign Affairs, sent a copy of

the San Francisco Examiner article to the defendant, CASPAR W. WEINBERGER, and asked him to respond to these allegations.

8. The defendant, CASPAR W. WEINBERGER, responded to Congressman Fascell in a letter dated September 4, 1986, which began as follows:

> I am pleased to have the opportunity to respond to your letter of August 12, in which you raise a number of important questions regarding alleged funding of Contra aid through the Foreign Military Sales system. I, too, saw the San Francisco Examiner article and regarded the allegation of Saudi funding of U.S. assistance to anti-government forces in Nicaragua as so outlandish as to be unworthy of comment from the Department.

THE GRAND JURY CHARGES:

9. On June 17, 1987, in a deposition deemed to have been taken in the District of Columbia, the defendant, CASPAR W. WEINBERGER, unlawfully, knowingly and willfully made a material false, fictitious and fraudulent statement to a department or agency of the United States, to wit, the House Select Committee, in a matter within its jurisdiction, to wit, its investigation of the Iran initiative and certain aspects of assistance for the Contras.

10. It was material to the House Select Committee's investigation to determine what the defendant, CASPAR W. WEINBERGER, had known about Saudi Arabian contributions to the Contras.

11. On June 17, 1987, the defendant, CASPAR W. WEINBERGER, appearing as a witness before duly authorized

staff of the House Select Committee, made the following statement, knowing it to be false, fictitious and fraudulent:

> Q. Do you recall learning at some point that the Saudis or some people connected with the Saudis provided funds for the contras?
>
> A. No. I don't have any memory of any contra funding or of anything connected with the Saudis that I can remember now.

12. The above underscored material statement made to the duly authorized staff of the House Select Committee by the defendant, CASPAR W. WEINBERGER, was false, fictitious and fraudulent, as the defendant, CASPAR W. WEINBERGER, then and there well knew, in that he had been informed in March 1985 that the Saudi Ambassador was contributing funds to the Contras.

(In Violation of Title 18, United States Code, Section 1001.)

COUNT III
(Perjury)

THE GRAND JURY CHARGES:

1. Paragraphs 1 through 45 of Count I of this Indictment are realleged and incorporated by reference.

2. On July 31, 1987, in the District of Columbia, the defendant, CASPAR W. WEINBERGER, having duly taken an oath before competent tribunals, to wit, the Select Committees, in a case in which the law of the United States authorizes an oath to be administered, that he would testify truthfully in proceedings before the Select Committees, did willfully and contrary to said oath make a material statement that he did not believe to be true, as hereinafter set forth.

3. It was material to the Select Committees' investigation to determine whether the President and other high-level United States Government officials, including the defendant, CASPAR W. WEINBERGER, knew in November 1985 of a proposed transfer of HAWK missiles from Israel to Iran.

4. At the time and place set forth in paragraph 2 of this Count, the defendant, CASPAR W. WEINBERGER, appearing as a witness under oath before the Select Committees, was asked the following question and gave the following answer, believing the underscored material declaration not to be true:

> Mr. Eggleston: The Committee has also received testimony that on that weekend of November 23 and November 24, [1985] there was a shipment of 18 HAWK missiles from Israel to Iran. This [Exhibit 8]

was a paper that was written immediately prior to that time. Let me just ask you: Did you have any knowledge that that transfer was to take place?

Secretary WEINBERGER: No, I did not.

5. The above underscored material declaration made under oath before the Select Committees by the defendant, CASPAR W. WEINBERGER, was not true, as the defendant, CASPAR W. WEINBERGER, then and there well knew, in that:

a. he had been informed by Mr. McFarlane, on or about November 10, 1985, of a proposal that, in connection with the release of Americans held hostage in Lebanon, Israel would ship HAWK missiles to Iran;

b. he had been asked by Mr. McFarlane, on or about November 19, 1985, to try to get 500 HAWK missiles for transfer to Iran in connection with the release two days later of Americans held hostage in Lebanon;

c. he had been informed by Mr. McFarlane, on or about November 20, 1985, that President Reagan had decided to sell HAWK missiles to Iran through the Israelis; and

d. he had been informed by Mr. McFarlane, on or about November 20, 1985, that Israel would sell 120 HAWK missiles to Iran, and that Americans held hostage in Lebanon would be released two days later.

(In Violation of Title 18, United States Code, Section 1621.)

COUNT IV
(Perjury)

THE GRAND JURY CHARGES:

1. Paragraphs 1 through 45 of Count I of this Indictment are realleged and incorporated by reference.

2. On July 31, 1987, in the District of Columbia, the defendant, CASPAR W. WEINBERGER, having duly taken an oath before competent tribunals, to wit, the Select Committees, in a case in which the law of the United States authorizes an oath to be administered, that he would testify truthfully in proceedings before the Select Committees, did willfully and contrary to said oath make a material statement that he did not believe to be true, as hereinafter set forth.

3. It was material to the Select Committees' investigation to determine whether the defendant, CASPAR W. WEINBERGER, had contemporaneous knowledge of the Israeli desire and need for the replenishment of weapons that Israel was sending to Iran.

4. At the time and place set forth in paragraph 2 of this Count, the defendant, CASPAR W. WEINBERGER, appearing as a witness under oath before the Select Committees, was asked the following question and gave the following answer, believing the underscored material declaration not to be true:

> Mr. Eggleston: And in addition, there are various documents which are in evidence before the Committee which refer to the Israeli desire and need for replenishment of weapons that the

Israelis were sending. Did you know that replenishment was an issue?

Secretary WEINBERGER: No, I have no memory of that.

5. The above underscored material declaration made under oath before the Select Committees by the defendant, CASPAR W. WEINBERGER, was not true, as the defendant, CASPAR W. WEINBERGER, then and there well knew, in that:

a. he had in November 1985 ascertained the availability of HAWK missiles with which to supply Israel;

b. he had been informed by Mr. McFarlane, on or about November 20, 1985, that President Reagan had decided to provide HAWK missiles to Iran through Israel; and

c. he had been informed, on or before December 10, 1985, that the United States Government still had to replenish 500 TOW missiles to Israel that Israel previously had transferred to Iran.

(In Violation of Title 18, United States Code, Section 1621.)

COUNT V
(False Statement)

THE GRAND JURY CHARGES:

1. Paragraphs 1 through 45 of Count I of this Indictment are realleged and incorporated by reference.

2. On December 19, 1986, the United States Court of Appeals for the District of Columbia Circuit, Division For the Purpose of Appointing Independent Counsels, appointed Lawrence E. Walsh Independent Counsel with jurisdiction to investigate possible federal criminal violations by United States Government officials "relating in any way" to the Iran initiative and support for the Contras.

3. In or about December 1986, the Independent Counsel was assigned Federal Bureau of Investigation ("FBI") personnel to assist the Independent Counsel in his investigation. Since that time the Independent Counsel and his staff ("Office of Independent Counsel" or "OIC") have interviewed numerous witnesses in connection with his investigation. Such interviews are conducted in the presence of a Special Agent of the FBI who takes contemporaneous notes of the interview and later prepares a report of the witness's statements.

4. On October 10, 1990, members of the Independent Counsel's staff and a Special Agent of the FBI interviewed the defendant, CASPAR W. WEINBERGER, in the District of Columbia. During this interview, the defendant, CASPAR W. WEINBERGER, unlawfully, willfully and knowingly

made material false, fictitious and fraudulent statements to a department or agency of the United States, to wit, the Office of Independent Counsel, in a matter within its jurisdiction, to wit, an investigation into possible violations of federal criminal law relating to the Iran initiative and support for the Contras.

5. It was material to the Independent Counsel's investigation to determine what written materials the defendant, CASPAR W. WEINBERGER, had created that might contain evidence relating to the Iran initiative and support for the Contras.

6. On October 10, 1990, the defendant, CASPAR W. WEINBERGER, in an interview with members of the Independent Counsel's staff and a Special Agent of the FBI, made the following statements, as recorded in the Special Agent's report of the interview, knowing the underscored material statements to be false, fictitious and fraudulent:

> Weinberger stated he had some disagreements with the April, 1988, 302 [the Special Agent's written report of the April 1988 interview]. His first disagreement concerned the sentence on page 2 that stated "He (Weinberger) had a habit of making notes on any piece of paper he could get his hands on." <u>Weinberger stated this sentence is misleading because it infers that it was his habit to make notes throughout his seven years as Secretary of Defense, which was not the case.</u>
>
> * * *
>
> Weinberger advised that during his first year as Secretary of Defense, from

approximately 1981 through 1982, he tried to take some notes when he attended various high-level meetings. Often he would write on the back of pages in the briefing books that were furnished to him for the meetings. At the end of the meeting, he would turn the books in to his staff and they were broken apart so they could reuse the covers.

Weinberger advised that his secretary, Kay Leisz, used to save his notes from these briefing book pages because Weinberger had told her that he wanted to dictate memoranda of the meetings based on them. After about a year, Leisz came up to Weinberger and said, "You're never really gonna dictate from these notes are you?" Weinberger agreed that he was too busy to dictate memoranda from these notes and he gave Leisz permission to discard them. From this point on, Weinberger rarely took notes, and when he did, Leisz never saved them for him, except for rare occasions.

According to Weinberger, after his first year as Secretary of Defense, he did not, as a rule, take any notes when he met with the President or other cabinet members. Weinberger stated that it would have been in "bad form" to take notes when having a private or relatively private discussion with other high-ranking Administration officials. No other cabinet member did so either, as far as Weinberger is aware. Weinberger specifically recalls not taking any notes during his few meetings with the President and other cabinet members when the Iranian arms sales matter was discussed. No notes were taken by any participant of these meetings, as far as Weinberger is aware.

* * *

Weinberger was asked which notes or documents he consulted to prepare himself for his testimony concerning the Iran/Contra matter before the Congressional Committees. Weinberger

stated he only would have used his notes taken at the November, 1986, Meese briefing, and a copy of the McFarlane memorandum with his marginalia on it. Weinberger is not aware of anything else he could have consulted.

* * *

After meetings, Weinberger did not go back to the Pentagon and make a record of the meeting he had just attended, nor did he designate others to do so.

* * *

Weinberger stated he did not take notes of his phone conversations.

* * *

AC [Associate Counsel] Gillen advised Weinberger that the OIC [Office of Independent Counsel] has a document, contemporaneously written by someone Weinberger would consider credible, which alleges that Weinberger has withheld some of his notes concerning the Iran/Contra matter. Gillen would not identify the author of the document or further describe the document.

Weinberger responded that the allegation is not true and he is distrustful of the document's author and his motivations. Weinberger stated that at an early cabinet meeting, President Reagan instructed everyone to give everything they had to the various investigators, and Weinberger had always followed these instructions. Weinberger stated he is not aware of any of his notes regarding Iran/Contra that have not been turned over. Weinberger stated there may be some oversight at DoD or elsewhere concerning the document production, but he has not deliberately withheld anything. Weinberger reiterated that he always instructed his staff and others at DoD to turn over all notes and documents when requested.

7. The above material statements made to a Special Agent of the FBI by the defendant, CASPAR W. WEINBERGER, in the presence of members of the Independent Counsel's staff were false, fictitious and fraudulent, as the defendant, CASPAR W. WEINBERGER, then and there well knew, in that:

a. he had, for years, including nearly seven years as Secretary of Defense, regularly taken daily notes of his meetings and telephone conversations;

b. he had, as Secretary of Defense, taken notes during meetings with the President and other high officials, including meetings related to the Iranian arms sales matter, that contained a record of what occurred at those meetings;

c. he had extensive notes that had never been provided to the Independent Counsel or the Select Committees; and

d. these notes contained information relevant to the Independent Counsel's investigation.

(In Violation of Title 18, United States Code, Section 1001.)

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A TRUE BILL:

Foreperson

Date

Lawrence E. Walsh
Independent Counsel

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