

from the Drug Enforcement Administration; it noted: “DEA source stated that Amador was probably picking up cocaine in San Salvador to fly to Grand Cayman and then to south Florida.”

A CIA officer, who apparently was on the ground at Ilopango, responded defensively to the DEA allegations against Amador in his own April 1986 cable, which asserted that “the only thing Amador . . . transported during these flights [from Ilopango in late 1984] was military supplies. [It has been] reported that Amador did fly into Ilopango several times during 1985 in light twin engine aircraft on trips from [the U.S.] to either Costa Rica or Panama. [There were suspicions that] . . . Amador was involved with narcotics.” Nevertheless, the cable from the unnamed CIA officer stated that he “would appreciate Station advising [DEA] not to make inquiries to anyone re Hangar no. 4 at Ilopango since only legitimate . . . support operations were conducted from this facility.”

Good golly, it’s Ollie

When the CIA officer in question was interviewed by investigators from the IG office, he acknowledged that “another entity conducted operations from Hangar 4. He says he is not certain about the nature or affiliation of that entity, but surmises it may have been associated either with Oliver North, the Private Benefactors, or the Nicaraguan Humanitarian Assistance Office (NHAO).”

In fact, as the final report of Independent Counsel Lawrence Walsh indicated, the NHAO program and the Private Benefactors operation were “virtually indistinguishable.” The CIA’s Fiers referred to the North-Secord air crews as “NHAO by day, private benefactors by night.” This meant, Walsh says, that “a U.S. government program unwittingly provided cover to a private covert operation.”

While the on-the-ground CIA man was clearly scrambling to cover for the North operations at Ilopango, CIA headquarters had a more ominous comment on Amador in a June 1986 memo, which reads, in part, “In April 1986, Amador, described as a former ARDE member, flew a Cessna 402 from Costa Rica to San Salvador where Amador has access to Hangar no. 4. It is believed that Amador was picking up cocaine in San Salvador to fly to Grand Cayman and then to south Florida. Amador has a valid Salvadoran government I.D. that allows Amador to operate freely in that country.”

Moises Nuñez was another ARDE affiliate suspected by the CIA of drug trafficking. A Cuban-American, Nuñez was a part owner and/or senior manager of a number of companies employed by the State Department-housed, but North-run NHAO. The companies, including Productos Del Atlantico, Ocean Hunter/Mr. Shrimp, and Frigorificos De Puntarenas, were the subject of investigation by the Senate Foreign Relations subcommittee chaired by John Kerry (D-Mass.), which published detailed evidence of Contra cocaine links in a 1989 public report.

According to the IG report, “On March 25, 1987, CIA questioned Nuñez about narcotics trafficking allegations against him. Nuñez revealed that since 1985, he had engaged in a clandestine relationship with the National Security Council (NSC). Nuñez refused to elaborate on the nature of these actions, but indicated it was difficult to answer questions relating to his involvement in narcotics trafficking because of the specific tasks he had performed at the direction of the NSC. Nuñez refused to identify the NSC officials with whom he had been involved.”

Later, in response to written questions from the Office of Independent Counsel Lawrence Walsh about Nuñez, CATF Chief Fiers wrote, “My recollection is that because of the NSC connection and the possibility that this could be somehow connected to the Private Benefactor program (otherwise known as the Iran-Contra affair) a decision was made not to pursue this matter, but rather to turn it over to Judge Walsh.” Judge Walsh’s mandate did not include any investigation of Contra cocaine-trafficking.

EO 12333 and the Contra drug-running cover-up

by Edward Spannaus

Executive Order 12333, entitled “United States Intelligence Activities,” and signed by President Reagan on Dec. 4, 1981, has been characterized by Lyndon LaRouche and *EIR* as the charter of the “secret government” established by Vice President George Bush in the early years of the Reagan-Bush administration.

EO 12333 designated the National Security Council as “the highest Executive Branch entity” for review, guidance, and direction of *all* foreign intelligence, counterintelligence, and covert operations—effectively putting the NSC in charge of the CIA, military intelligence, and special operations. And, for the first time, it permitted covert operations to be assigned to the NSC staff. It also permitted U.S. intelligence agencies to enter into secret contracts for services with “private companies or institutions”—thus paving the way for the privatization of intelligence operations.

Under other National Security Decision Directives and Executive Orders, George Bush gradually took control of the “crisis management” structure and counter-terrorism programs, so that within a few years, he had effective control over all intelligence and covert operations of the U.S. government, whether run through “official” or private channels.

Now, yet another element of the damage wrought by

EO 12333 has come to the surface, flushed out by the CIA Inspector General's report on the Contras and drug trafficking.

The 12333 loophole

Under the Executive Orders governing intelligence activities in existence prior to 1981, the CIA was required to report to the Justice Department possible violations of "any" Federal laws, including narcotics laws, by CIA employees or by non-employees who were contract agents or persons "acting for" or on behalf of the Agency.

EO 12333 contained a couple of subtle changes, which in fact created a loophole big enough to fly a C-123 through.

The previous order, number 12036 (signed January 1978), and 12333 both required senior officials of intelligence agencies to report evidence of possible violations of Federal laws by agency employees to the Attorney General. As to non-employees, officials were required to report possible violations of "specified" Federal laws. Under 12036, the specification was made by the Attorney General; under 12333, the specification was by "procedures agreed upon by the Attorney General and the head of the department or agency involved." That was the first aperture.

Second, 12333 added a clause specifying that the reporting was to be done "in a manner consistent with the protection of intelligence sources and methods, as specified in these procedures."

None of this was accidental. EO 12333 was the product of a series of seminars and discussions financed by Richard Mellon Scaife during 1979-81; the purpose of drafting a new executive order to replace one only three years old, was to "unleash" the intelligence agencies from the strictures of the post-Watergate period.¹

The 1982 Smith-Casey memorandum

The implementation of the pertinent section of EO 12333 thus required the drafting of a new Memorandum of Understanding (MOU), to replace the previous Attorney General's guidelines which had been promulgated in August 1979.

According to the recent CIA Inspector General's report, the new MOU was signed on Feb. 11, 1982 by Attorney General William French Smith, and then on March 2, 1982 by Director of Central Intelligence (DCI) William Casey. That MOU narrowed the definition of "employee" for crime-reporting purposes, so that persons "acting for" the Agency became regarded as "non-employees" for this purpose. As had been the case with the 1979 Attorney General guidelines, narcotics violations were not among the lists of crimes reportable for non-employees, a category which was now expanded.

1. For background on the drafting of EO 12333, see "Who Is Richard Mellon Scaife?" Part 2, *EIR*, April 4, 1997.

But, that wasn't all. At the same time that Attorney General Smith signed the MOU, he sent a letter to DCI Casey which noted that "a question arose regarding the need to add narcotics violations to the list of reportable *non-employee* crimes. . . ." After some legal analysis, the Smith letter stated explicitly that "no formal requirement regarding the reporting of narcotics violations has been included in these procedures."

The IG's report goes through in detail the legal provisions cited in the Smith letter, and concludes that the provisions cited "do not create a requirement to report narcotics violations to the Attorney General."

This is not some obscure citation in the IG's report. Many pages are devoted to analyzing this provision, including asking whether it was a mere oversight, or was deliberate, and to what extent did CIA officers regard themselves as obligated to report possible violations of narcotics laws.

Interviews with some of those involved with the 1982 MOU indicate that the omission was deliberate. Bernard Makowka, an attorney in the CIA's Office of General Counsel from 1975 to 1989, stated, according to the IG report, that "CIA did not want to be involved in law enforcement issues while DOJ [Department of Justice] did not want 'tainted' leads from CIA which could not be used in prosecutions because of national security concerns." Makowka also stated that "DOJ questioned everything in the EO 12333 procedures," and assumed "that DOJ carefully reviewed the MOU as well."

Justice Department obstruction

A number of CIA and DOJ officials who were involved at the time, point to the involvement of Mark Richard, a top career official in the DOJ Criminal Division. Richard has been identified to *EIR* by a DOJ spokesman as the principal liaison between the Justice Department and the intelligence agencies.² When asked about this during the preparation of the IG report, Richard acknowledged that "he probably had some input into the MOU," but he stated that he thinks it was negotiated by Rick Cinquegrana, then a deputy in the DOJ Office of Intelligence Policy and Review. Cinquegrana, on the other hand, says unequivocally that Richard did participate in discussions regarding the MOU. (Cinquegrana went on to become a Deputy IG at CIA, and played a prominent role in preparing Volume I of the IG report.)

The IG report states that Richard "was unable . . . to explain why narcotics violations were not on the list of reportable crimes except that the MOU had 'other deficiencies, not just drugs.'"

2. In 1986, Mark Richard was awarded the "Central Intelligence Award for the Protection of National Security During Criminal Prosecutions." See *EIR*, July 7, 1995, p. 73 for an article describing how Richard earned this award.

In 1985, Cinquegrana wrote a memo to Richard bringing to Richard's attention that "alleged violations of Title 21 [narcotics violations] by *non-employees* are not covered by the procedures to be reported." No response by Richard is reported in the IG report.

In January 1988, this deficiency in the procedures was again brought to the attention of the DOJ Criminal Division, in a letter from the CIA General Counsel to William F. Weld, then the Assistant Attorney General in charge of the Criminal Division. The CIA letter noted that a possible violation of narcotics laws by Contra leader Adolfo Chamorro "is not required to be reported under the Attorney-General approved guidelines." Says the IG report: "No information has been found to indicate the DOJ responded to this statement by the General Counsel."

This is not the first time that Mark Richard's name has come up in connection with non-action regarding allegations of drug-trafficking by the Contras. The 1988 Senate Foreign Relations Committee's "Kerry Report" contained a lengthy appendix on interference with the committee's investigation of Contra-related drug trafficking, most of which pertained to the Justice Department's Criminal Division.

Richard's name was frequently mentioned in connection with obstruction of the Senate investigation, as was that of William Weld.³ A Federal prosecutor in Miami submitted a sworn statement to the Kerry committee saying that he had been told that Justice Department officials met in 1986 to discuss how "to undermine" Senator Kerry's efforts to hold hearings regarding the narcotics allegations. Richard was also implicated in the leaking of confidential documents to Republican Senators in an effort to discredit the Kerry investigation.⁴

12333 in action

During the preparation of the IG report, many CIA officials and officers were interviewed; those officers who had been in the field in Central America in the 1980s were generally aware that there was no reporting requirement, and many stated that gathering information relating to drug-trafficking was not a priority, and that there was no time to pursue such leads or information due to the press of other business. Overall, the IG report makes it clear that the Agency's Operations Directorate put a low priority on collecting intelligence concerning the Contras alleged involve-

ment in narcotics trafficking, and as a result, there were very few reports made.

It is clear from the pattern of responses that, from 1987 on, there was much more emphasis on avoiding dealing with individuals suspected of drug-trafficking — which is, of course, *after* allegations of Contra drug-trafficking became public, and the Congressional investigations had begun.

The IG report acknowledges numerous instances in which CIA officers were aware of drug-trafficking allegations involving individuals working with the Contra supply program. Most of these appear to involve the 1984-86 period, when the Contra-support program was being run out of the NSC under the direction of Vice President Bush. Many involved individuals working for the "Private Benefactors" program, the official name for the "Enterprise" run by Oliver North and Richard Secord to by-pass Congressional restrictions on CIA and Defense Department involvement.

All told, the IG report cites over 50 instances where information was received regarding individuals involved in the Contra program, and who were alleged to be engaged in drug-trafficking; there are three instance of companies contracted to the Contra-support program. (This information is obviously incomplete, since it is based on records and recollections from an agency where both are often in short supply when dealing with covert operations.)

As to reporting of information, the IG reports states that in many instances the CIA did not inform Congress of allegations regarding Contra-related individuals when providing briefings to Congress in which such information was requested.

As to law enforcement agencies, the IG report cites only two definite cases of referrals to the Justice Department. It cites 25 other instances in which information "was shared in a variety of ways with Executive branch agencies," and 11 instances when no information at all was provided to any Executive branch agency.

The CIA official responsible for making crime reports to the DOJ in the early 1980s said that he often did report violations by non-employees, but, he added, "reporting of a matter really made no difference because DOJ never acted on the information."

One, very telling incident recounted in the IG report is related by an analyst who recalled that in October-December 1984, there were only three reports on alleged drug-trafficking, relating to Eden Pastora, and that these received very limited dissemination within the CIA, and they did not even go to the analysts responsible for counternarcotics analysis. However, in April 1986, the reports were given to the analyst by Alan Fiers, who requested that she draft a memorandum for Vice President Bush. The memorandum was entitled "Contra Involvement in Drug Trafficking."

"CIA disseminated this memorandum only to the Vice President," the IG report declares, and adds, "there was no follow-up."

3. In the model indictment drafted by *EIR* showing how George Bush, Donald Gregg, Felix Rodriguez, Oliver North, and others could be prosecuted on drug-conspiracy and racketeering charges, Count V of the indictment, "Conspiracy to Obstruct Congress," named William Weld as a co-conspirator for his efforts to prevent the Kerry Committee "from obtaining access to records and witnesses." See "Would a President Bob Dole Prosecute Drug Super-Kingpin George Bush?" *EIR Special Report*, September 1996.

4. See *EIR*, June 30, 1995, p. 10.