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The Contrapreneurs: Skirting Congress And the Law for Years

By David Ignatius

SHORTLY AFTER the House of Representatives voted in August 1984 to cut off U.S. military aid for the contras, Lt. Col. Oliver North approached a senior member of the interagency group that had been running the secret war in Central America and proposed an unusual interpretation of the law.

North argued that the ban on direct or indirect support of the contras by any "agency or entity of the United States involved in intelligence activities" didn't apply to members of the National Security Council staff. The NSC was exempt. North is said to have claimed, because it wasn't an intelligence agency.

"I told him I wasn't sure that was legal," the senior official recalled last week. But North apparently ignored the warning and went ahead with secret fund-raising schemes for the Nicaraguan counterrevolutionaries, or contras.

Money soon began flowing to the contras, but nobody in the U.S. government seemed to know (or want to know) where the money was coming from. When Elliott Abrams became assistant secretary of state for Latin America in July 1985, for example, he was told by a CIA official that the contras were receiving substantial sums of money from unknown sources. The CIA official explained to Abrams that the agency had traced the money back to secret bank accounts overseas, but couldn't discover who controlled the accounts, according to one administration official. (A story in The Los Angeles Times yesterday alleged that Abrams subsequently obtained from North the number of one such secret bank account and provided it to the Sultan of Brunei, who then deposited several million dollars for the contras.)

The wonder of the contras program, looking back at its checkered history, isn't that it finally erupted into a full-blown scandal 12 days ago with the revelation that profits from the sale of weapons to Iran were diverted via a secret Swiss bank account to the Nicaraguan rebels. The real wonder is that Congress, the Reagan administration and the public took so long to become concerned about the questionable activities and possible violations of law in contra funding that have been evident for several years.

Since its inception in 1981, the contras program has consistently skirted the legal

limits established by Congress. The House and Senate intelligence committees, which never felt comfortable with the program, have flashed a series of red lights during the past five years. The Reagan administration, pushed by CIA director William Casey and Lt. Col. North, has consistently driven through those red lights. The administration pushed the limits of the law, but Congress let them get away with it.

"Legality was viewed as an obstacle that had to be gotten around," said one official who helped supervise the secret war. "That was the spirit of the program."

A White House official explained last week that the contra funding arrangement bypassed even the NSC's own procedures for covert action. "All of this was handled off line," the official explained. "There is a normal process to handle covert operations. That process wasn't used in this case. It was all bypassed."

The contras themselves have paid the price for the overzealousness of North and his colleagues. In pushing covert action beyond the limits that Congress was ready to accept, the administration repeatedly undermined the fragile consensus of support for the contras on Capitol Hill. The mining of Nicaraguan harbors doomed the first phase of the program, which lasted from 1981 to April 1984. The revelation of the Iranian connection will probably doom the second phase, which began in October when Congress approved \$100 million in new U.S. military aid. The contras, at each stage, have been left hanging.

"If you look at what's happened, it goes back to a fundamental disconnect between Congress and the administration over how to formulate policy for Central America," said Langhorne A. (Tony) Motley, a former assistant secretary of state for Latin America.

The disconnect began in 1982, when Congress got nervous about the expanding covert war. The CIA had sold the contras program to Congress in 1981 as a way to interdict the flow of weapons from Nicaragua to leftist rebels in El Salvador. But when CIA officers dealt with the contra leadership, they talked of a far more ambitious goal: overthrowing the Sandinista regime in Managua.

"The excuse for the program was interdiction of arms," said one intelligence source who reviewed the program. "But I can be certain that wasn't the real aim. The real aim was to overthrow the Sandinistas. There was no point otherwise."

Congress wasn't ready for an all-out covert war against Nicaragua in 1982. So the House, at the urging of Rep. Edward Boland (D-Mass.), the chairman of the House Intelligence Committee, passed an amendment—at first secretly and then publicly,

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on Dec. 8, 1982—prohibiting U.S. covert actions "for the purpose of overthrowing the government of Nicaragua." The House overwhelmingly endorsed the amendment, 411-0, and it subsequently became law.

The CIA program continued unchanged. In April 1983, Boland told the House that he believed the administration was violating the law. Officials who were involved in the program admit now that they did indeed have hopes of a "snowball effect" that would topple the Sandinistas and that they encouraged the contras' dream of seizing power. But to stay within the law, the agency came up with a bizarre legal rationalization: The program didn't violate the congressional ban against overthrowing the Sandinistas, the CIA argued, because the rebel army wasn't strong enough to win.

To support this legal argument, the agency could point to studies by CIA and Pentagon intelligence analysts and to a report by the CIA's inspector general—all arguing that the contras couldn't win. Explained one intelligence source last week: "The rebels in fact didn't have the capacity to overthrow the Sandinistas. They were weak on political organization within Nicaragua, and they had nothing in the cities."

The contras' weakness led the CIA to rush things—in ways that proved disastrous. First, the CIA entered the war directly, by sending teams of what it called "unilaterally controlled Latin assets" to mine Nicaraguan harbors. And to encourage the contras to do more political work among the Nicaraguan peasantry, the agency prepared a "freedom fighters' manual," one section of which advocated the use of assassination.

The mining and the assassination manual shattered congressional support for the program. In May 1984, a month after the revelation that the CIA had been mining Nicaraguan harbors, the House rejected a \$21 million supplemental appropriation for the contras program. And in August 1984, the House approved a new Boland amendment that barred any U.S. agency after Oct. 1, 1984 from "supporting, directly or indirectly, military or paramilitary operations in Nicaragua by any nation, group, organization or individual." The Senate accepted the ban on military aid, and the president signed it into law.

The mining also created an awkward legal problem. When Nicaragua protested the mining to the World Court, the Reagan administration—fearing that it might lose the case—refused to recognize the court's jurisdiction and boycotted its proceedings. In pursuing the covert war, U.S. and international law seemed to be expendable.

The Boland amendment set the stage for the latest chapter of the contras saga. For even as Congress was drafting the new ban on U.S. support, the architects of the program were discussing how to get around it.

Several officials who were involved in the contras program recall "brainstorming sessions" that took place in mid-1984 to discuss alternative sources of financial support for the program. Israel was discussed as a possible source of money, the sources said. So was Taiwan.

(The Israelis did, indeed, contribute to the contras a shipment of weapons they had captured in South Lebanon in 1982, worth about \$2 million, according to one informed source. But four officials with first-hand knowledge of the program say they weren't aware of other direct Israeli support for the contras in the initial aftermath of the Boland amendment.)

By all accounts, Oliver North was the man who worried most about how to keep the contras afloat after the cutoff of U.S. funds. As the NSC representative on the interagency group that managed the program, North had travelled often to the contras' training camps in Central America and developed an especially close bond with them. One former chief of CIA operations in Latin America argued last week that North may have made the classic mistake of "falling in love with his agents."

Explained another official who helped direct the program, "Ollie was so committed to the contras' cause it affected his judgment. It led him to advocate things that were in the short-term interests of the contras, but not in the long-term interests of the United States."

North's first answer to the money problem was to help develop a network of private contributions. "That Ollie wanted to get involved in private funding, I know," said one source who discussed contra funding with him in 1984. To skirt the congressional ban on direct involvement, North initially helped contra leader Adolfo Calero solicit contributions from donors in the United States and overseas. According to a source who knew the details of this fund-raising operation, North would make the introductions for Calero, leaving the contra leader to actually deliver the pitch for funds.

Rumors and press reports about North's private fund-raising operation began to circulate in Washington last year. Robert Parry of The Associated Press, for example, reported North's role in "a secret plan to replace CIA funds with assistance from American citizens and U.S. allies."

But the Reagan administration continued to deny that there were any irregularities. Robert C. McFarlane, national security adviser at the time, declared in a Sept. 5, 1985 letter to Rep. Lee Hamilton, chairman of the House Intelligence Committee: "I can state with deep personal conviction that at no time did I or any member of my staff violate the letter or spirit of the law."

Some warning signs were already evident last year, but the administration ignored them. The CIA told Abrams in July 1985, when he took the *Latin America*

post at the State Department, that the contras were drawing on secret overseas bank accounts, according to an administration official. But nobody seemed to know who controlled the accounts and nobody demanded answers.

"It was obvious to anyone coming into this job that somebody was giving them military equipment," Abrams said in a recent interview. He said that he was also aware in July 1985, when he took office, that the contras had developed an air-resupply capability. (The contras' air-resupply effort expanded this year and became public knowledge in October when the cargo plane carrying Eugene Hasenfus crashed in Nicaragua. It now appears that this private air force was financed, in recent months, by profits from the Iranian arms deal.)

Abrams added: "When I got here, no one said: 'Here's the system.' What everybody said to me was: 'We don't know where this is coming from.'"

Abrams won't discuss details of what happened after he took over as assistant secretary of state. Specifically, he won't comment on a report yesterday by The Los Angeles Times that he urged the State Department to solicit a contribution of several million dollars to the contras from the Sultan of Brunei last summer and that he passed along to the Sultan the number of a secret Swiss bank account that North had given to him.

Such a solicitation would seem to violate at least the spirit of the Boland amendment. But a senior State Department official argued yesterday that a loophole in the Boland amendment would have permitted the State Department to approach other governments and solicit humanitarian aid for the contras. It isn't clear, however, why such humanitarian aid would be funneled through a secret Swiss bank account.

Several administration officials said they aren't surprised that the details of the secret funding operation were so closely held, or that they involved such circuitous financial arrangements. Said one White House official: "If you're going to funnel funds to the contras, you can't use the bureaucracies. They are prohibited by Congress from getting involved. They all have reporting systems that would generate paper."

This official added, in a comment that sums up the legal problem that has plagued the contras program from the beginning: "The primary purpose of the off-line fund is to fund programs for which there is no congressional authorization."

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