Clinging to Collusion: Why Evidence Will Probably Never Be Produced in the Indictments of 'Russian Agents'

The indictment of 12 Russian 'agents,' which included no collusion with Trump's team, is essentially a political and not legal document because it is almost certain the U.S. government will never have to present any evidence in court, reports Joe Lauria.

By Joe Lauria
Special to Consortium News

Charges against 12 Russian intelligence agents for allegedly hacking emails from the Democratic Party during the 2016 presidential election were announced by the U.S. Justice Department on Friday at the very moment President Donald Trump was meeting Queen Elizabeth II at Windsor Castle and just days before a summit between Trump and Russian President Vladimir Putin in Helsinki.

A central claim of Russia-gate has been that the Russian government with help from the Trump campaign stole emails from the Democratic Party and the Hillary Clinton campaign and then gave those emails to WikiLeaks for publication to damage Clinton's quest for the White House.

Until Friday however, the investigation into the allegations had produced no formal indictment of Russian government interference in the election. Like previous U.S. government accusations against Russia for alleged election meddling, the indictment makes assertions without providing evidence. Indictments do not need to show evidence and under U.S. law, indictments are not considered evidence. And it is highly unlikely that the government will ever have to produce any evidence in court.

Friday's indictments do not include any charges against Trump campaign members for allegedly colluding with the Russian government to carry out the hacks. That has been at the core of allegations swirling in U.S. media for two years. If the alleged co-conspirators "known" to the DOJ were on the Trump team, the indictments do not say. There is only a hint that "unknown" persons might be.

In announcing the indictments at a press conference Friday, Deputy Attorney General Rod Rosenstein said: "The conspirators corresponded with several Americans during the course of the conspiracy through the internet. There's no

allegation in this indictment that the Americans knew they were corresponding with Russian intelligence officers."

The indictment alleges that Russian agents, posing as Guccifer 2.0, communicated on Aug. 15, 2016 with "a person who was in regular contact with senior members" of the Trump campaign, most likely advisor Roger Stone, who has spoken about communicating with Guccifer 2.0. The indictment says Guccifer offered to "help u anyhow," apparently indicating that Stone did want Guccifer 2.0's help.

Clinging to 'Collusion'

The lack of evidence that the Trump campaign was colluding with Russia has never stopped Democrats and their media outlets from believing unnamed U.S. intelligence sources for two years about such collusion. "Collusion" is the title of a best-selling book about the supposed Trump-Russia conspiracy to steal the election, but such a charge is not to be found.

The indictment excluding collusion also undermines the so-called Steele dossier, a work of opposition research paid for by the DNC and Clinton campaign masquerading as an intelligence document because it was compiled by a former MI6 agent. The memos falsely claimed, it turns out, that Trump's people started colluding with Russia years before he became a candidate.

But even after Friday's indictments failed to charge anyone from Trump's team, the Democratic media continued to insist there was collusion. A *New York Times* story, headlined, "Trump Invited the Russians to Hack Clinton. Were They Listening?," said Russia may have absurdly responded to Trump's call at 10:30 a.m. on July 27, 2016 to hack Clinton's private email server because it was "on or about" that day that Russia allegedly first made an attempt to hack Clinton's personal emails, according to the indictment, which makes no connection between the two events.

If Russia is indeed guilty of remotely hacking the emails it would have had no evident need of assistance from anyone on the Trump team, let alone a public call from Trump on national TV to commence the operation.

And as Twitter handle "Representative Press" pointed out: "Trump's July 27, 2016 call to find the missing 30,000 emails could not be a 'call to hack Clinton's server' because at that point it was no longer online. Long before Trump's statement, Clinton had already turned over her email server to the U.S. Department of Justice." Either the indictment was talking about different servers or it is being intentionally misleading when it says "on or about July

27, 2016, the Conspirators attempted after hours to spearphish for the first time email accounts at a domain hosted by a third party provider and used by Clinton's personal office."

Instead of Trump operatives, the indictments name 12 Russians, allegedly agents from the GRU, the Russian military intelligence agency. The agents "knowingly and intentionally conspired with each other, and with persons known and unknown to the Grand Jury (collectively the 'Conspirators'), to gain unauthorized access (to 'hack') into the computers of U.S. persons and entities involved in the 2016 U.S. presidential election, steal documents from those computers, and stage releases of the stolen documents to interfere with the 2016 U.S. presidential election," the 29-page indictment says.

"Starting in at least March 2016, the Conspirators used a variety of means to hack the email accounts of volunteers and employees of the U.S. presidential campaign of Hillary Clinton (the 'Clinton Campaign'), including the email account of the Clinton Campaign's chairman," the indictment says.

Obvious Timing

The timing of the announcement was clearly intended to embarrass Trump as he was meeting the Queen and to undermine his upcoming meeting with Putin on July 16. The indictments may also have been meant to embarrass Russia two days before the World Cup final to be held in Moscow.

Pressure was immediately brought on Trump to cancel the summit in light of the indictments, which may have been the main goal in the timing of their announcement. "Glad-handing with Vladimir Putin on the heels of these indictments would be an insult to our democracy," Senator Chuck Schumer (D-NY) said in a statement less than an hour after the indictments were announced. "President Trump should cancel his meeting with Vladimir Putin until Russia takes demonstrable and transparent steps to prove that they won't interfere in future elections," Schumer said.

With no apparent irony, *The New York Times* reported, "The timing of the indictment … added a jolt of tension to the already freighted atmosphere surrounding Mr. Trump's meeting with Mr. Putin. It is all but certain to feed into the conspiratorial views held by the president and some of his allies that Mr. Mueller's prosecutors are determined to undermine Mr. Trump's designs for a rapprochement with Russia."

Russia Denies

The Russian government on Friday strongly denied the charges. In a statement,

the Foreign Ministry called the indictments “a shameful farce” that was not backed up by any evidence. “Obviously, the goal of this ‘mud-slinging’ is to spoil the atmosphere before the Russian-American summit,” the statement said.

The Ministry added that the 12 named Russians were not agents of the GRU.

“When you dig into this indictment … there are huge problems, starting with how in the world did they identify 12 Russian intelligence officers with the GRU?” said former CIA analyst Larry Johnson in an interview with Consortium News. Johnson pointed out that the U.S. Defense Intelligence Agency was not allowed to take part in the January 2017 Intelligence Community Assessment on alleged interference by the GRU. Only hand-picked analysts from the FBI, the NSA and the CIA were involved.

“The experts in the intelligence community on the GRU … is the Defense Intelligence Agency and they were not allowed to clear on that document,” Johnson said.

“When you look at the level of detail about what [the indictment is] claiming, there is no other public source of information on this, and it was not obtained through U.S. law enforcement submitting warrants and getting affidavits to conduct research in Russia, so it’s clearly intelligence information from the NSA, most likely,” Johnson said.

CrowdStrike’s Role

The indictment makes clear any evidence of an alleged hack of the DNC and DCCC computers did not come from the FBI, which was never given access to the computers by the DNC, but instead from the private firm CrowdStrike, which was hired by the DNC. It is referred to as Company 1 in the indictment.

“Despite the Conspirators’ efforts to hide their activity, beginning in or around May 2016, both the DCCC and DNC became aware that they had been hacked and hired a security company (“Company 1”) to identify the extent of the intrusions,” the indictment says.

The indictment doesn’t mention it, but within a day, CrowdStrike claimed to find Russian “fingerprints” in the metadata of a DNC opposition research document, which had been revealed by DCLeaks, showing Cyrillic letters and the name of the first Soviet intelligence chief. That supposedly implicated Russia in the hack.

CrowdStrike claimed the alleged Russian intelligence operation was extremely sophisticated and skilled in concealing its external penetration of the server. But CrowdStrike’s conclusion about Russian “fingerprints” resulted from clues that would have been left behind by extremely sloppy or amateur hackers—or

inserted intentionally to implicate the Russians.

One of CrowdStrike's founders has ties to the anti-Russian Atlantic Council raising questions of political bias. And the software it used to determine Russia's alleged involvement in the DNC hack, was later proved to be faulty in a high-profile case in Ukraine, reported by the *Voice of America.*

The indictment then is based at least partially on evidence produced by an interested private company, rather than the FBI.

Evidence Likely Never to be Seen

Other apparent sources for information in the indictment are intelligence agencies, which normally create hurdles in a criminal prosecution.

"In this indictment there is detail after detail whose only source could be intelligence, yet you don't use intelligence in documents like this because if these defendants decide to challenge this in court, it opens the U.S. to having to expose sources and methods," Johnson said.

If the U.S. invoked the states secret privilege so that classified evidence could not be revealed in court a conviction before a civilian jury would be jeopardized.

Such a trial is extremely unlikely however. That makes the indictment essentially a political and not a legal document because it is almost inconceivable that the U.S. government will have to present any evidence in court to back up its charges. This is simply because of the extreme unlikelihood that arrests of Russians living in Russia will ever be made.

In this way it is similar to the indictment earlier this year of the Internet Research Agency of St. Petersburg, Russia, a private click bait company that was alleged to have interfered in the 2016 election by buying social media ads and staging political rallies for both Clinton and Trump. It seemed that no evidence would ever have to back up the indictment because there would never be arrests in the case.

But Special Counsel Robert Mueller was stunned when lawyers for the internet company showed up in Washington demanding discovery in the case. That caused Mueller to scramble and demand a delay in the first hearing, which was rejected by a federal judge. Mueller is now battling to keep so-called sensitive material out of court.

In both the IRA case and Friday's indictments, the extremely remote possibility of convictions were not what Mueller was apparently after, but rather the public

perception of Russia's guilt resulting from fevered media coverage of what are after all only accusations, presented as though it is established fact. Once that impression is settled into the public consciousness, Mueller's mission would appear to be accomplished.

For instance, the *Times* routinely dispenses with the adjective "alleged" and reports the matter as though it is already established fact. It called Friday's indictments, which are only unproven charges, "the most detailed accusation by the American government to date of the [not alleged] Russian government's interference in the 2016 election, and it includes a litany of [not alleged] brazen Russian subterfuge operations meant to foment chaos in the months before Election Day."

GRU Named as WikiLeak's Source

The indictment claims that GRU agents, posing as Guccifer 2.0, (who says he is a Romanian hacker) stole the Democratic documents and later emailed a link to them to WikiLeaks, named as "Organization 1." No charges were brought against WikiLeaks on Friday.

"After failed attempts to transfer the stolen documents starting in late June 2016, on or about July 14, 2016, the Conspirators, posing as Guccifer 2.0, sent Organization 1 an email with an attachment titled 'wk dnc linkl.txt.gpg,'" the indictment says. "The Conspirators explained to Organization 1 that the encrypted file contained instructions on how to access an online archive of stolen DNC documents. On or about July 18, 2016, Organization 1 confirmed it had 'the 1Gb or so archive' and would make a release of the stolen documents' this week.'"

WikiLeaks founder and editor Julian Assange, who is in exile in the Ecuador embassy in London, has long denied that he got the emails from any government. Instead Assange has suggested that his source was a disgruntled Democratic Party worker, Seth Rich, whose murder on the streets of Washington in July 2016 has never been solved.

On Friday, WikiLeaks did not repeat the denial that a government was its source. Instead it tweeted: "Interesting timing choice by DoJ today (right before Trump-Putin meet), announcing indictments against 12 alleged Russian intelligence officers for allegedly releasing info through DCLeaks and Guccifer 2.0."

Assange has had all communication with the outside world shut off by the

Ecuadorian government two months ago.

Since the indictments were announced, WikiLeaks has not addressed the charge that GRU agents, posing as Guccifer 2.0, were its source. WikiLeaks' policy is to refuse to disclose any information about its sources. WikiLeaks' denial that the Russian government gave them the emails could be based on its belief that Guccifer 2.0 was who he said he was, and not what the U.S. indictments allege.

Those indictments claim that the Russian military intelligence agents adopted the personas of both Guccifer 2.0 and DCLeaks to publish the Democratic Party documents online, before the Russian agents, posing as Guccifer 2.0, allegedly supplied WikiLeaks.

The emails, which the indictment does not say are untrue, damaged the Clinton campaign. They revealed, for instance, that the campaign and the Democratic Party worked to deny the nomination to Clinton's Democratic Party primary challenger Bernie Sanders.

The indictments also say that the Russian agents purchased the use of a computer server in Arizona, using bitcoin to hide their financial transactions. The Arizona server was used to receive the hacked emails from the servers of the Democratic Party and the chairman of Clinton's campaign, the indictment alleges. If true it would mean the transfer of the emails took place within the United States, rather than overseas, presumably to Russia.

Some members of the Veterans' Intelligence Professionals for Sanity argue that metadata evidence points to a local download from the Democratic computers, in other words a leak, rather than a hack. They write the NSA would have evidence of a hack and, unlike this indictment, could make the evidence public: "Given NSA's extensive trace capability, we conclude that DNC and HRC servers alleged to have been hacked were, in fact, not hacked. The evidence that should be there is absent; otherwise, it would surely be brought forward, since this could be done without any danger to sources and methods."

That argument was either ignored or dismissed by Mueller's team.

The Geopolitical Context

It is not only allies of Trump, as the *Times* thinks, who believe the timing of the indictments, indeed the entire Russia-gate scandal, is intended to prevent Trump from pursuing detente with nuclear-armed Russia. Trump said of the indictments that, "I think that really hurts our country and it really hurts our relationship with Russia. I think that we would have a chance to have a very good relationship with Russia and a very good chance – a very good relationship with President Putin."

There certainly appear to be powerful forces in the U.S. that want to stop that.

After the collapse of the Soviet Union in 1991, Wall Street rushed in behind Boris Yeltsin and Russian oligarchs to asset strip virtually the entire country, impoverishing the population. Amid widespread accounts of this grotesque corruption, Washington intervened in Russian politics to help get Yeltsin re-elected in 1996. The political rise of Vladimir Putin after Yeltsin resigned on New Year's Eve 1999 reversed this course, restoring Russian sovereignty over its economy and politics.

That inflamed American hawks whose desire is to install another Yeltsin-like figure and resume U.S. exploitation of Russia's vast natural and financial resources. To advance that cause, U.S. presidents have supported the eastward expansion of NATO and have deployed 30,000 troops on Russia's borders.

In 2014, the Obama administration helped orchestrate a coup that toppled the elected government of Ukraine and installed a fiercely anti-Russian regime. The U.S. also undertook the risky policy of aiding jihadists to overthrow a secular Russian ally in Syria. The consequences have brought the world closer to nuclear annihilation than at any time since the Cuban missile crisis in 1962.

In this context, the Democratic Party-led Russia-gate appears to have been used not only to explain away Clinton's defeat but to stop Trump – possibly via impeachment or by inflicting severe political damage – because he talks about cooperation with Russia.

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McCabe: A War on (or in) the FBI?

Exclusive: Andrew McCabe's claim that his firing amounts to a "war on the FBI" doesn't make sense considering it was the FBI's own internal affairs office that recommended he be fired, as FBI whistleblower Coleen Rowley explains.

By Coleen Rowley

The explanation from Andrew McCabe that he was fired merely due to his staunch support of his former boss and mentor, FBI Director James Comey, and the "Russiagate" investigation, does not pass the smell test.

Similar to the one that mainstream corporate media is spinning, McCabe's explanation almost totally ignores the fact that it was the relatively independent Department of Justice (DOJ) Inspector General (IG) and the FBI's own Office of Professional Responsibility (OPR internal affairs) who recommended firing McCabe for his "lack of candor" on (the totally unrelated issue of) granting improper press access to the *Wall Street Journal* during ongoing FBI investigations of the Clinton Foundation and Clinton's emails.

While the exact specifics of McCabe's "lack of candor" – which McCabe denies – haven't been released by the IG, it's my own personal opinion that such official briefing of the press should not necessarily be a fireable offense as long as it's justified to correct faulty media reporting and was not covertly done for improper political reasons. But technically, firing for "lack of candor" has long been the FBI's "bright line" policy, ever since former FBI Director Louis Freeh tried to "clean up" the FBI in the mid-1990s when so many agents, including Special Agents in Charge, were caught lying about sex affairs, improper government credit card charges and drunk driving incidents – some amounting to reckless homicides.

But of course Freeh was rather hypocritical as he was himself involved in several instances of "lack of candor" including appointing his friend, Larry

Potts, as Deputy Director. This, despite the fact that Potts had covered up his own role in substituting "rules of engagement" for the FBI's "deadly force policy" during the Ruby Ridge standoff with (the arguably unconstitutional) "rules" directing the shooting on sight of any armed male.

The cover-up of Potts' mishandling of Ruby Ridge came to light during the criminal investigations and prosecution of the FBI sniper who had subsequently shot and killed Randy Weaver's wife while aiming at someone else. When Pott's role was revealed, Freeh had to censure and demote his Deputy Director; but even then Potts wasn't actually fired.

So it may well be that "lack of candor" sets too high a standard that no one, not even the angels, let alone FBI agents and their managing officials can live up to. Attorney General Jeff Sessions' lofty statement that the FBI's integrity is its brand, may be nice, wishful thinking but like other self-promoting speeches going back to J. Edgar Hoover, it has never rung true based on the hundreds of unethical actions I witnessed or was made aware of.

A number of OPR officials themselves were always getting caught in various unethical, deceitful (and sometimes even illegal) actions, including their long systemic practice of employing "double standards" in recommending disciplinary actions, i.e. top ranking officials received light discipline while lower ranking agents got far more severe punishments for similar wrongdoing. In 2001, some of the FBI's internal affairs supervisors became whistleblowers and testified to the Senate Judiciary Committee about the FBI's disciplinary "double standards." Although some remedies were eventually put into place, the IG also had to investigate some retaliatory fall-out.

In any event, McCabe's calling his firing a "war on the FBI" doesn't make sense considering it was the FBI's own internal affairs office that recommended he be fired. (Note that DOJ IG Michael Horowitz was appointed by President Obama in 2012 and the FBI's OPR is run by a career official originally appointed to that position in 2004 by then FBI Director Robert Mueller.)

Perhaps it would be more apt if McCabe had called it a war *inside* the FBI (and in Washington as a whole). Could the obvious chaos – some would say "bloodbath" – at all levels of government also be part of the "blowback" from 16 years of waging "perpetual war" (and from attendant war crimes and the internal corruption by which all empires rot)? As author *Viet Thanh Nguyen noted about the 2016 election: "*That sickness is imperialism… America is an imperial country, and its decay might now be showing. Empires rot from the inside even as emperors blame the barbarians." Remember how wars have a way of migrating home.

Don't forget that McCabe's mentor, James Comey, as Assistant Attorney General

had signed off on the Bush-Cheney Administration's torture tactics. Special Counsel Robert Mueller (said to be "joined at the hip" with Comey) dutifully looked the other way, as then FBI Director, when the CIA's torture program was instituted, allowing the atrocities to continue. It should also be recalled that Mueller helped the Bush-Cheney Administration to lie us into the Iraq War.

In early January, 2017 CIA Director John Brennan, FBI Director James Comey, NSA Director Michael Rogers and National Director of Intelligence James Clapper briefed President Obama and President-elect Trump on their "Intelligence Community Assessment" by which their agencies' "hand-picked analysts" accused Russia of meddling in the election and which also included former MI6 spy Chris Steele's "salacious dossier" accusing Trump's campaign of colluding with the Russians.

By prior plan, the three other intelligence directors left Comey alone in the room with Trump for Comey to confront the President-elect with the damning summary of Steele's dossier (which Comey admitted was not verified) and, as icing on the cake, also warning Trump that these accusations would probably appear soon in the media.

Forgetful Democrat Party loyalists also should be reminded that John Brennan was termed the drone assassination and "kill list" czar (before being named CIA Director). As CIA Director, Brennan was hellbent on covering up and promoting CIA torture.

James Clapper, also not known for candor in having previously misled Congress about the NSA's massive spying on Americans, has even been reported to be the source of the leak to CNN about the Obama intelligence directors' January briefing that focused on the Steele dossier. It sure looks like there is plenty "lack of candor" to go around! And plenty for these officials to continue covering up. But as Cicero observed hundreds of years ago, "the law falls silent in time of war." At very least everyone should be wary of partisan media spin since all of these war crimes and other deceitful, illegal actions made possible by the wars are fully bipartisan.

The real problem that most of the mainstream media don't want to even mention is how unprecedented it was to have *both* Presidential campaigns under serious criminal investigation in the weeks before the 2016 election! In all fairness, even if these now-fired FBI Directors *were* trying to do the right thing – which would not be in line with their rather sordid track records – it wouldn't really be possible to walk that political mine field without a faux pas one way or the other. Seen in that light, it's possible to even sympathize a little with any FBI Director when the public corruption at the highest levels in Washington DC has become so bad (and fully bipartisan), that it's hard to know where to start.

Coleen Rowley is a retired FBI special agent, division legal counsel and law enforcement ethics instructor who testified in connection with the 9-11 Joint Intelligence Committee's Inquiry, the Senate Judiciary Committee investigation and Department of Justice Inspector General's investigation, exposing some of the FBI's pre-9/11 failures, was named one of TIME magazine's "Persons of the Year" in 2002.

Nunes: FBI and DOJ Perps Could Be Put on Trial

House Intelligence Committee Chair Devin Nunes has stated that "DOJ and FBI are not above the law," and could face legal consequences for alleged abuses of the FISA court, reports Ray McGovern.

By Ray McGovern

Throwing down the gauntlet on alleged abuse of the Foreign Intelligence Surveillance Act (FISA) by the Department of Justice and the FBI, House Intelligence Committee Chair Devin Nunes (R-Calif.) stated that there could be legal consequences for officials who may have misled the FISA court. "If they need to be put on trial, we will put them on trial," he said. "The reason Congress exists is to oversee these agencies that we created."

Nunes took this highly unusual, no-holds-barred stance during an interview with Emmy-award winning investigative journalist Sharyl Attkisson, which aired on Sunday.

Attkisson said she had invited both Nunes and House Intelligence Committee Ranking Member Adam Schiff (D-Calif.) but that only Nunes agreed. She asked him about Schiff's charge that Nunes' goal was "to put the FBI and DOJ on trial." What followed was very atypical bluntness – candor normally considered quite unacceptable in polite circles of the Washington Establishment.

Rather than play the diplomat and disavow what Schiff contended was Nunes' goal, Nunes said, in effect, let the chips fall where they may. He unapologetically averred that, yes, a criminal trial might well be the outcome. "DOJ and FBI are not above the law," he stated emphatically. "If they are committing abuse before a secret court getting warrants on American citizens, you're darn right that we're going to put them on trial."

Die Is Cast

The stakes are very high. Current and former senior officials – and not only from DOJ and FBI, but from other agencies like the CIA and NSA, whom documents and testimony show were involved in providing faulty information to justify a FISA warrant to monitor former Trump campaign official Carter Page – may suddenly find themselves in considerable legal jeopardy. Like, felony territory.

This was not supposed to happen. Mrs. Clinton was a shoo-in, remember? Back when the FISA surveillance warrant of Page was obtained, just weeks before the November 2016 election, there seemed to be no need to hide tracks, because, even if these extracurricular activities were discovered, the perps would have looked forward to award certificates rather than legal problems under a Trump presidency.

Thus, the knives will be coming out. Mostly because the mainstream media will make a major effort – together with Schiff-mates in the Democratic Party – to marginalize Nunes, those who find themselves in jeopardy can be expected to push back strongly.

If past is precedent, they will be confident that, with their powerful allies within the FBI/DOJ/CIA "Deep State" they will be able to counter Nunes and show him and the other congressional investigation committee chairs, where the power lies. The conventional wisdom is that Nunes and the others have bit off far more than they can chew. And the odds do not favor folks, including oversight committee chairs, who buck the system.

Staying Power

On the other hand, the presumptive perps have not run into a chairman like Nunes in four decades, since Congressmen Lucien Nedzi (D-Mich.), Otis Pike (D-NY), and Sen. Frank Church (D-Idaho) ran tough, explosive hearings on the abuses of a previous generation deep state, including massive domestic spying revealed by quintessential investigative reporter Seymour Hersh in December 1974. (Actually, this is largely why the congressional intelligence oversight committees were later established, and why the FISA law was passed in 1978.)

At this point, one is tempted to say *plus ça change, plus c'est la même chose* – or the more things change, the more they stay the same – but that would be only half correct in this context. Yes, scoundrels will always take liberties with the law to spy on others. But the huge difference today is that mainstream media have no room for those who uncover government crimes and abuse. And this will be a major impediment to efforts by Nunes and other committee chairs to inform the public.

One glaring sign of the media's unwillingness to displease corporate masters and

Official Washington is the harsh reality that Hersh's most recent explosive investigations, using his large array of government sources to explore front-burner issues, have not been able to find a home in any English-speaking newspaper or journal. In a sense, this provides what might be called a "confidence-building" factor, giving some assurance to deep-state perps that they will be able to ride this out, and that congressional committee chairs will once again learn to know their (subservient) place.

Much will depend on whether top DOJ and FBI officials can bring themselves to reverse course and give priority to the oath they took to support and defend the Constitution of the United States against all enemies foreign and domestic. This should not be too much to hope for, but it will require uncommon courage in facing up honestly to the major misdeeds appear to have occurred – and letting the chips fall where they may. Besides, it would be the right thing to do.

Nunes is projecting calm confidence that once he and Trey Gowdey (R-Tenn.), chair of the House Oversight Committee, release documentary evidence showing what their investigations have turned up, it will be hard for DOJ and FBI officials to dissimulate.

In Other News …

In the interview with Attkisson, Nunes covered a number of other significant issues:

- The committee is closing down its investigation into possible collusion between Moscow and the Trump campaign; no evidence of collusion was found.
- The apparently widespread practice of "unmasking" the identities of Americans under surveillance. On this point, Nunes said, "In the last administration they were unmasking hundreds, and hundreds, and hundreds of Americans' names. They were unmasking for what I would say, for lack of a better definition, were for political purposes."
- Asked about Schiff's criticism that Nunes behaved improperly on what he called the "midnight run to the White House," Nunes responded that the stories were untrue. "Well, most of the time I ignore political nonsense in this town," he said. "What I will say is that all of those stories were totally fake from the beginning."

Not since Watergate has there been so high a degree of political tension here in Washington but the stakes for our Republic are even higher this time. Assuming abuse of FISA court procedures is documented and those responsible for playing fast and loose with the required justification for legal warrants are not held to account, the division of powers enshrined in the Constitution will be in peril.

A denouement of some kind can be expected in the coming months. Stay tuned.

Ray McGovern works with Tell the Word, a publishing arm of the ecumenical Church of the Savior in inner-city Washington. He was a CIA analyst for 27 years and is co-founder of Veteran Intelligence Professionals for Sanity (VIPS).

Will Congress Face Down the Deep State?

The House Intelligence Committee's vote on Monday to release a memorandum describing alleged malfeasance at the DOJ and the FBI could test constitutional principles, writes Ray McGovern.

By Ray McGovern

With the House Intelligence Committee vote yesterday to release its four-page memorandum reportedly based on documentary evidence of possible crimes by top Justice Department and FBI leaders, the die is cast. Russia-gate and FBI-gate are now joined at the hip.

The coming weeks will show whether the U.S. intelligence establishment (the FBI/CIA/NSA, AKA the "Deep State") will be able to prevent its leaders from being held to account. Past precedent suggests that the cabal that conjured up Russia-gate will not have to pick up a "go-to-jail" card. This, despite the widespread guilt suggested by the abrupt way that several senior-echelon DOJ and FBI rats have already jumped ship. Not to mention the manner in which FBI Deputy Director Andrew McCabe, was unceremoniously pushed overboard yesterday, after Director Christopher Wray was given a look at the extra-legal capers described in the House Intelligence Committee memorandum.

Granted, at first glance Deep State's efforts to undercut candidate Donald Trump at first seem so risky and audacious as to be unbelievable. By now, though, Americans should be able to wrap their heads around, one, the dire threat that

outsider Trump was seen to be posing to the Deep State and to the ease with which it held sway under President Barack Obama; and, two, expected immunity from prosecution if Deep State crimes were eventually discovered after the election, since “everybody knew” Hillary Clinton was going to win. Oops.

Accountability This Time?

There seems to be an outside chance, this time, that the culprits who did actually interfere in the 2016 presidential election in an effort to make sure Trump could not win, and then did all in their power to sabotage him after he his electoral victory, will be held to account by unusually feisty members of the House. It is abundantly clear that members of the House Intelligence and House Judiciary Committees are now in possession of the kind of unambiguous, first-hand documentary evidence needed to get a grand jury convened and, eventually, indictments obtained.

It is no exaggeration to suggest that the Republic and the Constitution are at stake. A friend put it the way:

“When GW Bush said of the Constitution, ‘It’s just a goddam piece of paper,’ I thought it was just another toss-off bit of hyperbole as he so often would utter. Not so. He, and many in his administration (and out) sincerely believe it and set out to make it so. They may actually have succeeded.”

The Media’s Role

I almost feel sorry for what is called “mainstream media” and – even more so – for the majority of Americans deceived by the prevailing narrative on Russia-gate. Even though that narrative now lies in shreds, there is no sign so far that the pundits will fess up and admit to spreading a far-fetched, evidence-impoverished story that was full of holes from the get-go.

Even vestigially honest journalists of the old school, who may themselves have been taken in, will have a Herculean challenge if they attempt to write to right the ship of journalism. As for brainwashed Americans, pity them. It is far easier to deceive folks than to convince them they have been deceived, as Mark Twain once wrote.

From today’s online version of the *New York Times*, for example, the lede headline read, “Taunted by Trump and Pressured From Above, McCabe Steps Down as F.B.I. Deputy.”

The *Times* quotes Representative Adam B. Schiff, the top Democrat on the House Intelligence Committee, giving hypocrisy a bad name. Schiff said yesterday that it had been a “sad day” for the committee and that Republicans had voted “to

politicize the intelligence process."

And this just in: an op-ed from *NYT* pundit David Leonhardt, titled – you guessed it – "The Nunes Conspiracy."

"Instead of evidence, the memo engages in the same dark and misleading conspiracy theories that have characterized other efforts by President Trump's allies to discredit the Russia investigation," Leonhardt wrote. "But the substance of the claims isn't really the point. Distraction is the point, and the distraction campaign is having an impact."

And so it goes.

Ray McGovern works with the publishing arm of the ecumenical Church of the Savior in inner-city Washington. He was a CIA analyst for 27 years and co-founded Veteran Intelligence Professionals for Sanity (VIPS).

Letting 'Wall Street' Walk

Legal double standards are the norm in the U.S. – no jail for law-flouting Wall Street bankers but mass incarceration for average citizens, especially minorities, who get caught up in the prison-industrial-complex, as Michael Brenner describes.

By Michael Brenner

Illicit financial behavior has been decriminalized in the United States – for all practical purposes. Despite the revelations of massive misconduct by banks and other financial services businesses, criminal investigations are rare, indictments exceptional and guilty judgments extraordinary.

Most potentially culpable actions are overlooked by authorities, slighted, reduced from criminal to civil status when pursued, individuals evade penalties much less punishment, and the appeals courts take extreme liberties in exonerating culprits when and if the odd conviction reaches them.

The last mentioned are establishing new frontiers in the formulation of ingeniously sophistic arguments to justify letting financial malefactors off the hook. *As some wit suggests, all 32 or so judicial inventions should be assembled in a legal code called the Goldman Variations.*

Our elected officials, our regulators, our politicos and the media have come to accept this as the natural order of things. Business Sections of newspapers,

like *The New York Time*s, read like the gazette for the world of organized crime in its heyday when the five Mafia families were on top of their game. (substitute Goldman Sachs, Chase Morgan, Bank of America, CITI, Wells Fargo). As for the *Wall Street Journal* and the legion of business magazines, they blend features of *VARIETY* and *Osservatore Romano*.

The reasons for this phenomenon are multiple: the rule of money in our politics; the neutering of regulatory bodies by the appointment of business friendly officers in symbiotic relationships with former or prospective employers; a wider culture in which the cult of wealth pervades all; and the timidity of a political class that defers to the power centers who enjoy rank, status and respect.

Obama's appointment of Mary Jo White, from the white gloves law firm Debevoise & Plimpton which specialized in advising and representing Wall Street during the financial crisis (where she was head of litigation), to head the Security Exchange Commission is roughly analogous to appointing Dominick "Quiet Dom" Cirillo, consigliore of the Vito Genovese Mafia family, to run the FBI's Organized Crime Task Force in Manhattan.

In White's case, her earlier experience as United States Attorney for the Southern District of New York (the financial district) made her an exceptionally valuable acquisition when she switched sides in 2003 – 2013. Her record at the SEC since 2013 confirms her adherence to the Holder philosophy of leniency toward financial misdeeds – and confirms where her loyalties lie.

Appointments to senior positions dealing with financial matters have been primarily "parachutists." Several of them are more egregious than the White case. So too was former Attorney-General Eric Holder. Within days of leaving the Justice Department, he was back at his former corporate law firm – albeit as a "counselor" for the one-year stipulated transition period.

During his years in private practice, Holder represented the Swiss private bank UBS. Because of this, he recused himself from participating in the Department of Justice investigation of UBS's abetting of tax evasion by U.S. account-holders.

Such is the privileged status of our largest financial institutions that the Obama administration has amended, *de facto*, the Constitution to accommodate their claim to being above the law. Former Attorney General Holder is the author of the doctrine that posits the principle of "too-big-to-prosecute."

Fearing Economic Damage

Holder's publicly stated view is that he, the Justice Department and the

Executive Branch generally have a right to exempt financial institutions from criminal prosecution when they believe that doing so would cause “unacceptable” damage to the national economy. It first took shape during Bill Clinton’s administration.

Holder presented the full-blown doctrine in a startling confession during testimony before the Senate Judiciary Committee on March 5, 2011. “I am concerned that the size of some of these institutions becomes so large that it does become difficult for us to prosecute them when we are hit with indications that if you do prosecute, if you do bring a criminal charge, it will have a negative impact on the national economy, perhaps even the world economy,” Holder said, according to *The Hill* newspaper.

Holder’s comments didn’t come as a total surprise. His underlings had already made similar confessions to *The New York Times* the previous year, after they declined to prosecute HSBC for flagrant, years-long violations of money-laundering laws, out of fear that doing so would hurt the global economy.

Lanny Breuer, formerly in charge of doling out the Justice Department’s wrist slaps to banks, told *Frontline* as much in the documentary “The Untouchables” which aired in January 2011.

Of course, President Obama and Attorney-General Holder had taken oaths to uphold the laws of the land. That pledge does not allow them personal discretion as to whom it applies. Yet, they have acted as if the Justice Department and the Executive Branch generally have a right to exempt financial institutions from criminal prosecution when they believe that doing so would cause “unacceptable” damage to the national economy.

Let us be clear; Holder is not referring to the interpretation and application of any legal standard. He is referring to a purely subjective standard that has nothing to do with the law. In a similar vein, it is reported that the Obama administration has instructed the Department of Justice and the FBI to make mortgage fraud its lowest priority and, indeed, to dismiss hundreds of cases without any investigation whatsoever. (Report of the Inspector General, Department of Justice March 11, 2014).

The administration also improperly has diverted funds appropriated for this specific purpose to other areas. This arbitrary exclusion from investigation of the largest category of financial crime has been made in the face of a well-publicized and solemn undertaking by both President Obama and Attorney General Holder to take bold and expeditious action in this area.

“Equal protection of the laws” is a principle enshrined in the

Constitution. There is no allowance for the President or the Attorney General, who serves at the President's pleasure, to establish special classes of persons who are exempt from the laws' stipulations – either to make them immune or to deny them due process. Yet, that is what they explicitly have done.

In a commencement address at NYU in 2014, Holder stated bluntly: "Responsibility remains so diffuse, and top executives so insulated, that any misconduct could again be considered more a symptom of the institution's culture than a result of the willful actions of any single individual."

The Holder-Obama doctrine concentrates heavily on the disruptive effects on the nation's (and the world's) financial system were any of the too-big-to-fail banks brought low by a combination of criminal convictions and financial penalties that were greater than the profits made from systematically skirting the law – as currently done.

Addressing the Problem

That is a highly debatable proposition on purely technical grounds. Whatever the appraisal one makes, there are two straightforward solutions to the problem as stated.

First, one should break them up so that were they to "fail," the systemic consequences would be manageable. Second, risk is increased rather than lowered by following a legal *cum* political strategy that has the effect of encouraging the managers of mega-financial institutions to play fast-and-loose in their financial maneuverings.

To return to the analogy of the five Mafia families, a law enforcement strategy that favored civil action over criminal prosecution, that entailed fines rather than prison time, and that kept those fines at a level where they could be calculated as a cost of doing a very lucrative business would result in a flourishing of criminal organizations – at great cost to society.

Moreover, were there a practice of Mafia bosses and police commissioners/district attorneys parachuting from one sphere to another, the collateral damage inflicted on all law enforcement would be enormous.

The Holder claim for corporate immunity is unsustainable by any reasonable legal standard and reading of the Constitution. Such reasonableness, though, no longer prevails. Witness the widespread passive acceptance of this novel revolutionary doctrine when it was pronounced – and its only slight rhetorical qualification since.

The radical idea that nominally criminal acts should be understood contextually

and that judgment as well as punishment should be administered accordingly opens up a wide of questions about the conduct of our judicial system.

There is no reason why it could not be applied generally to the entire range of criminal conduct and proceedings. Following the Holder-Obama logic, this should be done at every stage of jurisprudence: indictment, trial, judgment and punishment. A recent case in New York City illustrates what the implications might be.

In that instance, a woman was arrested at Kennedy airport for possession of 500 grams of cocaine. She was detained, indicted and convicted of a felony. All that followed the well-trod legal path. It was the sentencing that broke the mold.

Judge Frederick Block placed the woman on probation rather than throwing her into the slammer. His main argument, developed in a closely reasoned 46-page opinion, concentrated on the "collateral consequences" of her conviction. Those consequences were deemed adequate punishment to meet the requirements of the law, society and the felon's long-term integration into the community. The addition of prison time would have made the punishment disproportionate to the crime. It would have exceeded – not fit – the crime.

What the judge pointed out is that so many legal disabilities attach to anyone convicted of a felony as to deny the person a reasonable chance of pursuing a normal life upon release. Those disabilities include disqualification for all kinds of access to government assistance programs which cover education, housing and employment. The net result would be a high likelihood of recidivism. From society's perspective, that translates into a higher likelihood of costs associated with welfare, medical care, and possible re-institutionalization. In addition, there are the tangible and intangible costs for possible maintenance of any children she might bear.

The woman in question lives with her mother in New Haven where she was enrolled in college and was working part time as a nail technician. For her, the collateral consequences could be expected to be particularly high. The underlying logic, though, applies generally.

Setting Examples

What about the "systemic consequences?" Isn't punishment for the commission of a crime supposed to act on a deterrent for others? Yes – in principle. That consideration, however, did not figure in the Holder-Obama doctrine as applied to financial misdeeds whose perpetrators are in a more visible position to set an example.

Indeed, one could argue that the sense of entitlement and expectation of having a right to act with impunity free of worry about accountability is far more pronounced among Wall Street executives than it is among inner city poor. Thereby, the positive value of criminal conviction followed by individual punishment would be commensurately greater in terms of a benefit to society.

The case cited above involves a felonious criminal act whose commission was proven in a court of law. American prisons, today, confine hundreds of thousands whose crimes are of a lesser order. Indeed, a significant percentage may not have committed any crime at all but rather are victims of police campaigns to cleanse the streets of those who allegedly have committed relatively minor misdemeanors.

Draconian enforcement of “zero tolerance” philosophies has led to widespread abuse of the police power in cities like New York. The absurd “three strikes and you’re out” strategy initiated in California and promoted nationwide by President Bill Clinton, has had even more dire results in spiking the incarceration rates, for longer terms – jailing mainly marijuana and other drug users who are a threat only to themselves rather than to society.

Much has been made of the dogmatic claim that a crackdown on misbehavior is the reason for the drastic drop in urban violent crime. This is an urban legend. In New York City, former Mayor Rudi Giuliani and his Police Commissioner Bill Bratton, have been lionized for this supposed achievement. Yet, the story is pure fiction.

The unprecedented sharp decline occurred under David Dinkins, his black predecessor who was widely criticized for being “soft on crime” and stinting in his support for the police. The truth is that violent crime was closely correlated with the crack epidemic and its recession – reinforced by other trends that registered nationwide.

For these categories of criminals and alleged criminals whose misdeeds fall in the category of misdemeanors, Judge Block’s concept of “collateral consequences” is even more compelling. The concept, in fact, should be broadened to pertain to arrest and prosecution as well as sentencing. The consequences to be taken into account properly should aggregate their weight for both the individual and society. Then, there are the intangible costs of mass criminalization and imprisonment.

Unsettling Markets

Yet, while rulings like Judge Block’s may be rare regarding “street crimes,” they have become routine regarding Wall Street crimes, which are not prosecuted

in the name of the Holder doctrine concerned about the unsettling effects on investor confidence and markets from casting a dark cloud over “Wall Street.”

Again, this is dubious on technical grounds; and the logical responses obvious. Let us shift ground and think of the unsettling effects produced by legally stigmatizing a considerable slice of inner-city populations. Disruption of families, instilling widespread feelings of persecution, aggravation of relations with the police, more estranged race relations, etc. It may be difficult to place numbers on these costs, but the negative consequences for society are great.

The full extent of the decade-long police “zero tolerance” campaign, and its demoralizing impact on largely minority neighborhoods, is one of the great unreported stories of our times. Corruption was its hallmark: in its misleading justifications, in its methods that systematized entrapment and fabrication of charges (Examples: creating a public nuisance by drinking a beer from a can on the steps of your house; impeding pedestrian movement by stopping to chat while walking your dog at midnight; loitering in the hallway of your own apartment building).

Other elements of the corruption included its degeneration into a crass quota system, its abuse of the criminal justice system that jailed hundreds of thousands of innocents who couldn’t meet bail or hire a lawyer, forcing them to admit to misdemeanors that leave a permanent stain on their records in order to be released, and its exploitation by cynical politicians.

The one first-hand account that tells the tale is Matt Taibbi’s deeply disturbing *DIVIDE* (Spiegel & Grau 2014). It deals with New York City, but the same phenomenon is visible across urban America.

Collateral consequences can be a valuable concept – one that has multiple meanings. But it should be applied where it serves justice not iniquity.

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Reporter Wins Fifth Amendment Case

The U.S. government’s recurring threats to prosecute journalists who receive classified documents may have created an avenue for some reporters to evade testimony at least in civil cases by asserting a Fifth Amendment privilege against self-incrimination, says Marcy Wheeler.

By Marcy Wheeler

An appellate decision on the long-running dispute between a former prosecutor and the Department of Justice may provide a new way for journalists to protect their government sources. The decision came as a result of former prosecutor Richard Convertino's effort to sue DOJ for Privacy Act violations tied to a 2004 leak to *Detroit Free Press* reporter David Ashenfelter, who reported that Convertino was under investigation by DOJ's Office of Professional Responsibility for misconduct on a terrorism trial.

There are no heroes in the underlying suit. Convertino claims DOJ investigated him not for prosecutorial misconduct, but instead to retaliate for criticism of their conduct under the "war on terror" and testimony provided under subpoena to Congress. But Convertino's alleged conduct, withholding evidence from defense attorneys, was also inexcusable.

The dispute has sucked Ashenfelter up in a long-running fight over whether he should have to testify about his sources. He first tried to refuse by invoking reporter's privilege, which a judge rejected. But when, in 2008, Convertino tried to depose the reporter, Ashenfelter invoked the Fifth Amendment privilege against self-incrimination in response to each question.

To defend doing so, Ashenfelter pointed to Convertino's own claims that he had conspired with criminals at DOJ, as well as to a series of cases (including those under the Espionage Act) and public statements suggesting DOJ *might* prosecute someone for using documents illegally obtained from the government to do reporting.

On Friday, the Sixth Circuit upheld Ashenfelter's right to invoke the Fifth Amendment to refuse to testify. The key part of the Sixth Circuit's ruling found that Ashenfelter had a real concern that any testimony about the leak would implicate him in federal crimes; in his opinion, Judge Eric Clay pointed to 18 U.S.C. § 641, which prohibits receiving something known to have been stolen with the intent to use it for one's own gain:

"Convertino's complaint in his merits suit against the DOJ alleges facts that if proven could implicate Ashenfelter in the commission of one or more crimes, including the allegation that federal officials illegally provided Ashenfelter with two confidential OPR documents. If proven, this allegation would appear to establish that Ashenfelter 'receive[d]' a 'record . . . of the United States or of [an] agency or department thereof,' raising a risk of prosecution under 18 U.S.C. § 641.

“In this setting, it requires very little ‘judicial imagination,’ if any, to comprehend that Ashenfelter could have reasonable cause to fear that answering questions regarding the source or sources of the leak would risk injurious disclosure.

Effectively, the court agreed that it would be possible for a journalist to be charged because he knowingly used government documents that had been stolen to do reporting, and therefore Ashenfelter could properly rely on the Fifth Amendment privilege to avoid testifying.

That conclusion is not surprising given that DOJ has considered similar charges against Julian Assange and the UK is still considering charges against journalists who have been working with documents provided by former National Security Agency contractor Edward Snowden.

If the decision stands, it may present a new way for journalists to protect sources in civil cases, at least in Michigan, Ohio, and Kentucky, where the decision will stand as precedent.

It wouldn’t offer much protection in criminal cases, because prosecutors could always give the journalist immunity to testify against sources. But it does represent an important recognition that in an era of witch hunts like that launched against James Risen, where even Judge Leonie Brinkema observed the prosecution would have liked to name Risen as a co-conspirator, journalists may have additional legal reasons to want to protect their reporting, beyond just a reporter’s privilege.

Investigative journalist Marcy Wheeler writes the “Right to Know” column for ExposeFacts, where this article first appeared. She is best known for providing in-depth analysis of legal documents related to “war on terrorism” programs and civil liberties. Wheeler blogs at emptywheel.net and publishes at outlets including the *Guardian, Salon* and the *Progressive.* She is the author of*Anatomy of Deceit: How the Bush Administration Used the Media to Sell the Iraq War and Out a Spy.* Wheeler won the 2009 Hillman Award for blog journalism.

Hiding Facts to Thwart Democracy

Over-classification of U.S. government information is a grave threat to the Republic, giving politicians and bureaucrats the power to hide facts that aren’t really sensitive but are vital to a meaningful public debate, such as the IG report on President Bush’s surveillance program, says ex-NSA analyst Kirk

Wiebe.

By Kirk Wiebe

A few weeks ago, as the result of a Freedom of Information Act request by the New York Times, we were able to view a redacted version of the so-called “Five IG’s” report, formally entitled “Report on the President’s Surveillance Program” or PSP, written by the Inspectors General of the Defense Department, the National Security Agency, the Justice Department, the Central Intelligence Agency, and the Office of the Director of National Intelligence.

What was most interesting about the portions of the report that were released was how badly over-classified much of the report originally was. The first paragraph of the introduction to Volume 1, dated July 10, 2009, was rather innocuous until you notice the “scratch out” of the original classification, **(~~TS//SI//OC//NF~~)**.

As someone who has worked extensively with classified information, converting it from raw source materials to forms appropriate for analysis, as well as for publication to a wide array of intelligence consumers throughout the U.S. Government, I can tell you without hesitation that it is highly unusual to see an entire paragraph of an originator-controlled (OC) document rendered completely unclassified after being initially classified Top Secret.

In fact, I have never seen such a gross change in classification in more than 34 years of intelligence work. First, the terminology making up the classification of the paragraph in question:

TS means Top Secret (information that if released to an enemy would result in grave damage to the security of the United States); **SI** for Special Intelligence (intelligence derived from signals); **OC** for Originator Controlled (no changes to content or classification can be made without the permission of those originating/publishing the document); **NF** for NOFORN (no foreign nationals not even partners as in the “Five Eyes” construct are permitted to see information).

Allow me to emphasize that such over-classification is both extreme and dangerous because 1) TS is supposed to be used only to notify the reader that the associated information is of the kind that would most harm the United States if disclosed, and 2) it undermines the security of true secrets by marking everything under the sun “TOP SECRET.” It also enables the government to prosecute unjustly those accused of possessing or mishandling “classified information.”

Yet, this formerly TS/SI/OC/NF paragraph reads as follows: “In response to the terrorist attacks of 11 September 2001, on 4 October 2001, President George W.

Bush issued a Top Secret authorization to the Secretary of Defense directing that the signals intelligence (SIGINT) capabilities of the National Security Agency (NSA) be used to detect and prevent further attacks in the United States. The Presidential Authorization stated that an extraordinary emergency existed permitting the use of electronic surveillance within the United States for counterterrorism purposes, without a court order, under certain circumstances. For more than five years, the Presidential Authorization was renewed at 30- to 60-day intervals to authorize the highly classified NSA surveillance program, which is referred to throughout this report as the President's Surveillance Program (PSP)."

While the most important fact coming out of the extensive report (over 700 pages in length) probably is the confirmation that the NSA was collecting not just metadata about Americans and foreigners but also content beginning in October 2001 I submit that the pervasive and egregious over-classification of whole paragraphs within the Five IG's document is far more troubling and carries with it potentially wide ramifications affecting legal cases around the country brought by the U.S. Government that involve the possession or mishandling of "classified information".

In just the first 50 pages of the report, there are **29** paragraphs that are declassified that were originally classified **Top Secret**, and **26** paragraphs that are declassified that were originally classified **Secret** (serious damage to U.S. security if in the hands of an enemy). Three more examples are:

~~"(TS//SI//NF)~~ When NSA personnel identified erroneous metadata collection, usually caused by technical problems or inappropriate application of the authorization, they were directed to report the violation or incident through appropriate channels and to delete the collection from all NSA databases. NSA reported three such violations early in the program and took measures to correct them."

The next section refers to information that President George W. Bush's Attorney General John Ashcroft provided to U.S. District Judge Royce Lamberth, then presiding judge of the Foreign Intelligence Surveillance Court, responsible for issuing secret approval for electronic spying inside the United States.

"~~(TS//SI//OC/NF)~~ Ashcroft provided Lamberth a brief summary of the President's decision to create the PSP, and Ashcroft stated that he had determined, based upon the advice of John Yoo, an attorney in DoJ's Office of Legal Counsel (OCL), that the President's actions were lawful under the Constitution. Ashcroft also emphasized to Lamberth that the FISC was not being asked to approve the program. Following Ashcroft's summary, Hayden described for Lamberth how the program functioned operationally, Yoo discussed legal aspects of the program, and Baker

proposed procedures for handling international terrorism FISA applications that contained PSP-derived information. For the next four months, until the end of his term in May 2002, Lamberth was the only FISC judge read into the PSP."

~~" (TS//SI//OC/NF)~~ Judge Colleen Kollar-Kotelly succeeded Lamberth as the FISC Presiding Judge and was briefed on the PSP on 17 May 2002. The briefing was similar in form and substance to that provided to Lamberth. In response to several questions from Kollar-Kotelly about the scope of the President's authority to conduct warrantless surveillance, DoJ prepared a letter to Kollar-Kotelly, signed by Yoo, that, according to Kollar-Kotelly, 'set out a broad overview of the legal authority for conducting [the PSP], but did not analyze the specifics of the [PSP] program.' The letter, which Kollar-Kotelly reviewed at the White House but was not permitted to retain, essentially replicated Yoo's 2 November 2001 memorandum regarding the legality of the PSP. Kollar-Kotelly was the only sitting FISC judge read into the PSP until January 2006, when the other FISC judges were read in."

Such a pervasive corruption of the classification process runs counter to the expectation that the Government has an obligation to carry out its responsibilities with a reasonable measure of propriety; in other words, an expectation that it must perform in its quasi-contractual obligations to serve the American people.

Clearly the prevalence of over-classification in a document issued by five Inspector's General from within the hallowed halls of the most secret organizations in the Government is a sign not of occasional error, but of widespread incompetence, even malfeasance, in the Government's ability to properly classify a document containing both classified and unclassified information as defined by Executive Order 13526, the controlling authority for government classified information.

Many of these examples suggest classification not because the information is truly sensitive to national security, but because it is potentially politically sensitive or embarrassing if discovered by the American public at large.

One can only wonder what the consequences of such willful and reckless over-classification has been in the prosecutions, both past and present, of defendants left to plead their sentences in cases where the evidence is deemed classified and the courts have not demanded that the Government defend its claims that information should indeed be classified.

Kirk Wiebe is a retired National Security Agency senior analyst and recipient of that Agency's second highest award the Meritorious Civilian Service Award. As an employee of NSA, he has sworn to uphold the U.S. Constitution against all

enemies, foreign and domestic. He has worked with colleagues Bill Binney, Ed Loomis, Tom Drake and Diane Roark to oppose NSA corruption and over-surveillance since 2001.

The Double Standards on Bank Crimes

The U.S. government has levied some billion-dollar fines on banks for offenses tied to the financial crisis, but bank officers have avoided the shackled frog-walk and time behind bars, humiliations dealt out routinely to criminals who make off with much less money, says ex-U.S. diplomat William R. Polk.

By William R. Polk

Permit me to put on a different hat. Admittedly, it is moth-eaten and worn with age, but it may still rank as a hat. It dates back to the late 1960s when I became a member of the board of directors of a small bank near the University of Chicago where I was then teaching.

The Hyde Park Bank was both “progressive” in that it lent money to a variety of “minority” (that is mainly black-owned) enterprises and successful in that it acquired several other Chicago-area banks and founded two more. It was ultimately “sold down the river” to become through various mergers a part of the Chase system. But I made enough money from it – despite the fact that it was both progressive and honest – to put my children through college.

Let me address that issue of honesty. I served as chairman of the audit committee of the Board and so was schooled in what might be termed the ethics or at least the legalities of banking. I was sternly told that I was the “point man” of the Board and that if bank employees engaged in illegal or even imprudent activities, I was both legally and morally bound – and commercially wisely guided in my own interests – to report them. Otherwise, I was personally culpable. It would not be the bank that was guilty but I.

It is from this background that I have watched the various Treasury and Justice Department agreements to punish banking irregularities and/or felonies. Some of these abuses have been huge. As William K. Black points out in his book *The Best Way to Rob a Bank is to Own One,* the old fashioned way, hiding behind a bandana and waving a pistol, was not very efficient. People like John Dillinger and Slick Willie Sutton were amateurs. They made off with just the small change.

What they didn’t know was that banks keep little more than the change physically in their buildings. The really big money is in their distant accounts. But that,

of course, is well known to the truly professional bank thieves. They would not bother threatening the clerks who cash the checks and accept the deposits.

The serious thieves would go where the big money is. Which is what they did, making off with the real stuff through various kinds of market and exchange manipulations, abuses which have brought fines of about $100 billion in the U.S., about a quarter of that amount in Europe and more than $4 billion more in the UK .

Staggering figures, but what do they indicate? First, of course, that means some people have been stealing the world blind and at least a few got caught. That should be horrifying to us all because their behavior caused or at least greatly intensified the world financial crisis in which so many people were grievously hurt.

But some of us sigh with relief, knowing that the fines show that “the system works” and that bad actions bring retribution on the guilty. But wait a minute. Is this really so?

As we all know from the media, not a single bank officer has been put into prison for actions that cost the United States an almost unimaginable amount of money and cost many of our fellow citizens their homes and jobs. To the best of my knowledge none of the culprits has even been charged.

Rather, what the government has done is to fine the banks. But even if we accept the legal fiction that corporations are “persons,” that is a rather curious action for three reasons:

First, whether banks are or are not legally “persons,” they do not make decisions. It is the officers who make the decisions and the directors who either allow them to do so or do not prevent them from doing so. In other words, putting it bluntly, there are identifiable human beings who are making the decisions and are responsible for those decisions. Banks do not act; bank officials act.

Second, if a bank is fined, who pays the fine? The answer is simple: the stockholders. Some of them will be officers and directors, admittedly, but most are not. Some of the stockholders, no doubt, are public entities – pension funds, colleges and universities, foundations while many others are simply private citizens who have no hand in the illegal or immoral activities. That is to say, in the current policy of our government, many of them are being punished for what they did not do.

The third reason why I find the government reaction curious is proportionality does the punishment, even if it were correctly directed, fit the crime? It seems

to me ludicrous to suggest that it does. If a druggie can be sent to prison for being caught with a few ounces of heroin in his pocket or if a robber who holds up a filling station for $50 is imprisoned for five years, what should happen to the person who "steals" a billion dollars or whose violation of the law causes millions of people to lose their houses and jobs?

It seems to me that we urgently need to rethink the relationship of our financial institutions and those who run them to the law and demand that the government stop evading its evident, logical and legal responsibilities. It needs to enforce the law or the financial world, on which we obviously so heavily depend, will be just a jungle, red in tooth and claw, where the strong eat the weak.

Or, is the power of the money already too strong? Is the law just a scrap of paper applied disproportionately to people without money or power? Obviously, the fountainhead of our legal system, Congress, almost to each man or woman in it, is for rent or for sale. Indeed, Congress no longer makes even a pretense of making the national wellbeing as its guide.

But, from my former days in the U.S. government, I was sure that officials in the Executive Branch were more honorable – or perhaps just more fearful of being caught. Today, I am less sure. Are they now, too, "on the take?" If not, why do the people in charge of the Departments of the Treasury and Justice close their eyes to illegal actions by bank officers responsible for financial crimes?

Doing so is, in effect, to give our financial system a poison pill from which our Republic may not be able to recover. Almost worse: Why do so few citizens seem to care?

William R. Polk is a veteran foreign policy consultant, author and professor who taught Middle Eastern studies at Harvard. President John F. Kennedy appointed Polk to the State Department's Policy Planning Council where he served during the Cuban Missile Crisis. His books include: *Violent Politics: Insurgency and Terrorism; Understanding Iraq; Understanding Iran; Personal History: Living in Interesting Times; Distant Thunder: Reflections on the Dangers of Our Times;* and *Humpty Dumpty: The Fate of Regime Change*.

Sundering the Social Contract

In political philosophy, the idea of a social contract is that the individual surrenders some rights for the benefits of living in a civilized society that

has reasonable rules for all. However, in recent decades, the greedy rich have torn up that contract, as Danny Schechter explains.

By Danny Schechter

The conflict between property rights and human rights has entered a new chapter. It is a debate that goes back to the challenge by landowners and merchants behind the American Revolution's war on British control over the colonial economy.

Only today, as those speaking in the name of the 99 percent challenge the super wealthy of the 1 percent (actually the .001 percent), there is a new battleground in what's known as the housing market with as many as 14 million Americans in or facing foreclosure.

The defense of property rights is the holy of the holies for the propertied classes with a whole industry set up to enforce their claims of ownership.

We have seen how this plays out with the courts, run by often bought-off and complicit judges rubber-stamping claims by banks and realty interests even when laws are disregarded amidst fraudulent filings, biased contracts, and phony robot signings.

They control the marshals who seize your property and they constantly denigrate the real victims as "irresponsible." It's not surprising any more to read about banks foreclosing on properties they don't even own.

European philosopher Jean-Jacques Rousseau, who postulated the "social contract" that gives property rights a moral claim, would be turning in his grave if he knew of the many abuses that homeowners in the U.S. face daily.

According to one scholarly presentation I read, "In order to clearly present Rousseau's views on property in the Social Contract, we must first define what he means by property. Property according to Rousseau is that which is obtained **legally** thereby purporting legitimate claim to one's holdings. Now we must consider what gives an individual the right to openly claim ownership.

"Rousseau points out that right does not equal might. In other words, having a right can never derive from force. A right must be given legitimately which means it is attached to moral and legal code. This makes it contractual whereby the rights of one are applied to the rights of all. Once a right is established, it is beneficial and necessary for the individual to apply this right effectively for his best interests and those of the whole.

"This motivation is directed at the formation of community thereby creating a

social contract between individuals that come together to act as a group. Now a combination of rights is formed whereby each individual is protected by the whole group that stands together as a community.

“The concept is that man standing alone is more vulnerable than many men united each in defense of the other. This condition makes it impossible for one to hurt an individual without hurting the whole group or for one to hurt the group without affecting each individual.

“There is now a social contract where individual rights are combined. In this case, it is in the best interest of the individual to give over his rights to the group since he has a more powerful protective base than standing alone.”

And yet many of us today do “stand alone:” in the commercial marketplace where borrowers are seen as suckers by lenders and fraud is pervasive. Abuse, lying and theft are built into the equation.

Now President Barack Obama says, four years after the markets began melting down and the sub-prime mortgages were exposed as sub-crime, he will crack down on these abuses. Hallelujah.

It sounds good, and you want to believe, especially because Obama has tapped New York State Attorney General Eric Schneiderman, who has rejected settling with some banks engaged in massive frauds because it’s a deceptive deal, as a top gun for the effort.

The Justice Department has announced more details to the press, minus its own official who will run the effort. Lanny Breuer, assistant attorney general for the criminal division, was “traveling” and couldn’t make the press conference. Before joining the Department that calls itself Justice, Breuer was working for a law firm representing big banks, perhaps not a topic he wanted to answer questions about.

Attorney General Eric Holder was there to reveal that there will be 55 people working on this full-time, 30 attorneys and support people, and 10 FBI agents who first blew the whistle on “pervasive real estate fraud” back in 2004.

Yves Smith of NakedCapitalism.com who follows details like this closely was underwhelmed, writing: “During the Savings and Loan crisis, Bill Black reminds us that there were about a thousand FBI agents working on the various cases. That’s one hundred times the number of people working on a scandal that is about forty times larger and far more complex.

“To put it another way, let’s say that this scandal cost the American public $5-7 trillion in lost home equity. That’s about $100 billion of lost home equity

per person assigned to this task force. If someone stole $100 billion a corporation, like say, if somehow Apple's entire cash hoard which is roughly that amount, suddenly disappeared, I'm guessing that the FBI would assign *more than one person to the case."*

Okay, these are tough times and the government is pressed and the President is running for reelection with his "bundlers" (i.e . the people who raise the big money) pressing the flesh on Wall Street to find more 1 percent donors. Will this fund-raising effort stymie his hell-raising effort? Stay tuned.

Adds Smith: "For the last eight weeks, nearly 200 federal examiners have labored inside some of the nation's biggest banks to determine how those institutions would hold up if the recession deepened. Yup, roughly four times as many people were assigned to conduct sham stress tests as are assigned to investigate the causes of the financial crisis and prosecute the people responsible. So we see that this is a not a serious deployment of government resources to unmask a complex economy-shaking financial scheme. It just isn't."

No surprise there. And, as for the causes of the financial crisis, remember the commission that was created by Congress and that found the while disaster "avoidable." It offered plenty of analysis but quickly led to paralysis with partisan bickering fogging the issues and no agenda for change forthcoming.

Matt Stoller, a former aide to former Rep. Alan Grayson, D-Florida, tries to unravel a massive contradiction that rises to the man at the top: "There are two underlying structural problems with the new(ish) Federal task force on financial fraud," he writes. "One, it is the policy of the administration to protect the banking system's basic architecture, which means the compensation structure and the existing personnel who run these large institutions.

"Any real investigation into the financial collapse will inevitably lead to the collapse of this architecture. Thus, any real investigation will be impeded when it begins to conflict the basic policy framework of the Obama administration. And this framework is set by Obama. It's what he believes in. He made this clear in his first State of the Union, when he said a priority of the administration was to ensure that 'the major banks that Americans depend on have enough confidence and enough money to lend even in more difficult times.'"

Perhaps this is why so few bankers have spoken out loudly about this latest effort to target their financial frauds. They know it's not serious and recognize that political business, like the news business, is now a branch of show business.

And Jean-Jacques Rousseau is not talking either. He has been dead for more than

two centuries, along with his social contract.

News Dissector Danny Schechter writes the NewsDissector.com blog, His film Plunder and book, The Crime of Our Time, examine financial frauds. (Plunderthecrimeofourtime.com) He wrote the introduction to the Cosimo Books edition of the Financial Inquiry Report and hosts News Dissector Radio on PRN.fm. Comments to dissector@mediachannel.org

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The Warning in Gary Webb's Death

Special Report: Modern American history is more complete because journalist Gary Webb had the courage to revive the dark story of the Reagan administration's protection of Nicaraguan Contra cocaine traffickers in the 1980s. However, Webb ultimately paid a terrible price, as Robert Parry reports.

By Robert Parry

Every year since investigative journalist Gary Webb took his own life in 2004, I have marked the anniversary of that sad event by recalling the debt that American history owes to Webb for his brave reporting, which revived the Contra-cocaine scandal in 1996 and forced important admissions out of the Central Intelligence Agency two years later.

But Webb's suicide on the evening of Dec. 9, 2004, was also a tragic end for one man whose livelihood and reputation were destroyed by a phalanx of major newspapers the *New York Times*, the *Washington Post* and the *Los Angeles Times* serving as protectors of a corrupt power structure rather than as sources of honest information.

In reviewing the story again this year, I was struck by how Webb's Contra-cocaine experience was, in many ways, a precursor to the subsequent tragedy of the Iraq War.

In the 1980s, the CIA's analytical division was already showing signs of politicization, especially regarding President Ronald Reagan's beloved Contras and their war against Nicaragua's Sandinista government and the U.S. press corps was already bending to the propaganda pressures of a right-wing Republican administration.

Looking back at CIA cables from the early-to-mid-1980s, you can already see the bias dripping from the analytical reports. Any drug accusation against the

leftist Sandinistas was accepted without skepticism and usually with strong exaggeration, while the opposite occurred with evidence of Contra cocaine smuggling; then there was endless quibbling and smearing of sources.

So, to put these reports in anything close to an accurate focus, you would need special lenses to correct for all the politicized distortions. Yet, the U.S. news media, which itself was under intense pressure not to appear “liberal,” worsened the Reagan administration’s fun-house reflection of reality and attacked any dissident journalist who wouldn’t go along.

Thus, Americans heard a lot about how the evil Sandinistas were trying to “poison” America’s youth with cocaine, although there was not a single interception of a drug shipment from Nicaragua during the Sandinista reign, except for one planeload of cocaine that the United States flew into and out of Nicaraguan in a clumsy “sting” operation.

On the other hand, substantial evidence of Contra-related cocaine shipments out of Costa Rica and Honduras was kept from the American people with Reagan’s Justice Department and CIA intervening to head off investigations and thus prevent embarrassing disclosures. The chief role of the big newspapers in this upside-down world was to heap ridicule on anyone who told the truth.

During that time frame of the early-to-mid-1980s, the patterns were set for CIA analysts to advance their careers (by giving the president what he wanted) and mainstream journalists to protect theirs (by accepting propaganda). By 2002-2003, these patterns had become deeply engrained, leaving almost no one to protect the American people from a new round of falsehoods aimed at Iraq.

Though I was not in touch with Webb in the last months of his life in 2004, I have always wondered if he saw this connection between his own valiant efforts to correct the historical record about Contra-cocaine trafficking in 1996 and the victory of lies over truth regarding Iraq’s WMD in 2002-2003.

In the weeks before Webb’s suicide, there also was the intervening fact of George W. Bush’s reelection and with it, the dashed expectation that the CIA analysts and the mainstream journalists who played along with the Iraq-WMD fabrications might face some serious accountability. At the moment when Webb picked up his father’s pistol and put it to his head, there must have appeared little hope that anything would change.

Indeed, we are now seeing yet another replay of this systematic distortion of information, this time regarding Iran and its alleged nuclear weapons program. Any tidbit of information against Iran is exaggerated, while exculpatory data is downplayed or ignored.

So, it may be timely again to recount what happened to Gary Webb and to reflect on the dangers of allowing this corrupt disinformation system to press ahead unchecked.

Dark Alliance

For me, the tragic story of Gary Webb began in 1996 when he was working on his "Dark Alliance" series for the *San Jose Mercury News*. He called me at my home in Arlington, Virginia, because, in 1985, I and my Associated Press colleague Brian Barger had been the first journalists to reveal the scandal of Reagan's Nicaraguan Contras funding themselves in part by collaborating with drug traffickers.

Webb explained that he had come across evidence that one Contra-connected drug conduit had funneled cocaine into Los Angeles, where it helped fuel the early crack epidemic. Unlike our AP stories a decade earlier, which focused on the Contras helping to ship cocaine from Central America into the United States, Webb said his series would examine what happened to the Contra cocaine *after* it reached the streets of Los Angeles and other cities.

Besides asking about my recollections of the Contras and their cocaine smuggling, Webb wanted to know why the scandal never gained any real traction in the U.S. national news media. I explained that the ugly facts of the drug trafficking ran up against a determined U.S government campaign to protect the Contras' image. In the face of that resistance, I said, the major publications, the likes of the *New York Times* and the *Washington Post* , had chosen to attack the revelations and those behind them rather than to dig up more evidence.

Webb sounded confused by my account, as if I were telling him something that was foreign to his personal experience, something that just didn't compute. I had a sense of his unstated questions: Why would the prestige newspapers of American journalism behave that way? Why wouldn't they jump all over a story that important and that sexy, about the CIA working with drug traffickers?

I took a deep breath, sensing that he had no idea of the personal danger he was about to confront. Well, he would have to learn that for himself, I thought. It surely wasn't my place to warn a journalist away from a significant story just because it carried risks.

So, I simply asked Webb if he had the strong support of his editors. He assured me that he did. I said their backing would be crucial once his story was out. He sounded perplexed, again, as if he didn't know what to make of my cautionary tone. I wished him the best of luck, thinking that he would need it.

The Safe Route

When I hung up, I wasn't sure that the *Mercury News* would really press ahead with the story, considering how the big national news outlets had dismissed and ridiculed the notion that President Reagan's beloved Contras had included a large number of drug traffickers.

It never seemed to matter how much evidence there was. It was much easier, and safer, career-wise, for Washington journalists to reject incriminating testimony against the Contras, especially when it came from other drug traffickers and from disgruntled Contras. Even U.S. law-enforcement officials who discovered evidence were disparaged as overzealous and congressional investigators were painted as partisan.

In 1985, as we were preparing our first AP story on this topic, Barger and I knew that the evidence of Contra-cocaine involvement was overwhelming. We had a broad range of sources both inside the Contra movement and within the U.S. government, people with no apparent ax to grind who had described the cocaine-smuggling problem.

One source was a field agent for the Drug Enforcement Administration (DEA); another was a senior official on Reagan's National Security Council (NSC) who told me that he had read a CIA report about how a Contra unit based in Costa Rica had used cocaine profits to buy a helicopter.

However, after our AP story was published in December 1985, we came under attack from the right-wing *Washington Times*. That was followed by dismissive stories in the *New York Times* and the *Washington Post*. The notion that the Contras, whom President Reagan had likened to America's Founding Fathers, could be implicated in the drug trade was simply unthinkable.

Yet, it was always odd to me that many of the same newspapers had no problem accepting the fact that the CIA-backed Afghan mujahedeen were involved in the heroin trade, but bristled at the thought that the CIA-backed Nicaraguan Contras might be cut from the same cloth.

A key difference, which I learned both from personal experience and from documents that surfaced during the Iran-Contra scandal, was that Reagan had assigned a young group of ambitious intellectuals such as Elliott Abrams and Robert Kagan to oversee the Contra war.

These neoconservatives worked with old-line anticommunists from the Cuban-American community, such as Otto Reich, and CIA propagandists, such as Walter Raymond Jr., to aggressively protect the Contras' image. And the Contras were always on the edge between getting congressional funding or having it cut off.

So, that combination, the propaganda skills of Reagan's Contra-support team and

the fragile consensus for continuing Reagan's pet Contra war, meant that any negative publicity about the Contras would be met with a fierce counterattack.

Going to Editors

The neoconservatives were also bright, well-schooled, and skilled in their manipulation of language and information, a process they privately called "perception management." They proved adept, too, at ingratiating themselves with senior editors at major news outlets.

By the mid-1980s, these patterns had become well-worn in Washington. If a journalist dug up a story that put the Contras in a negative light, he or she could expect the Reagan administration's propaganda team to make contact with a senior editor or bureau chief and lodge a complaint, apply some pressure, and often offer up some dirt about the offending journalist.

Also, many news executives in that time frame were sympathetic toward Reagan's hard-line foreign policy, especially after the humiliations of the Vietnam War and the Iranian revolution. Supporting U.S. initiatives abroad, or at least not allowing your reporters to undercut those policies, was seen as patriotic.

At the *New York Times*, executive editor Abe Rosenthal was one of the news media's most influential neoconservatives, declaring that he was determined to steer the newspaper back to "the center," by which he meant to the right.

At AP, general manager Keith Fuller was known to be a strong Reagan supporter and his preferences were sometimes expressed forcefully to AP's Washington bureau where I worked. At the *Washington Post* and *Newsweek* (where I went to work in 1987), there was also a strong sense that Reagan-era scandals should not reach the president, that it would not be "good for the country."

In other words, on the issue of Contra drug trafficking, there was a confluence of interests between the Reagan administration, which was determined to protect the Contras' public image, and senior news executives, who wanted to adopt a "patriotic" posture after convincing themselves that the country shouldn't endure another wrenching battle over wrongdoing by a Republican president.

The popular image of courageous editors standing up for their reporters in the face of government pressure was not the reality, especially not where the Contras were concerned.

Reverse Rewards

So, instead of a process that outsiders might imagine, where journalists who dug out tough stories got rewarded, the actual system worked in the opposite way.

The careerists in the news business quickly grasped that the smart play when it came to the Contras was either to be a booster or at least to pooh-pooh evidence of the Contras' brutality or drug traffickers.

The same rules applied to congressional investigators. Anyone who pried into the dark corners of the Nicaraguan Contra war faced ridicule, as happened to Democratic Sen. John Kerry of Massachusetts when he followed up the early AP stories with a courageous investigation that discovered more ties between cocaine traffickers and the Contras.

When his Contra-cocaine report was released in 1989, its findings were greeted with yawns and smirks. News articles were buried deep inside the major newspapers and the stories focused more on alleged flaws in his investigation than on his revelations.

For his hard work, *Newsweek* summed up the prevailing "conventional wisdom" on Kerry by calling him a "randy conspiracy buff." Being associated with breaking the Contra-cocaine story was also regarded as a black mark on my own career.

To function in this upside-down world, where reality and perception often clashed and perception usually won the big news outlets developed a kind of cognitive dissonance that could accept two contradictory positions.

On one level, the news outlets did accept the undeniable reality that some of the Contras and their backers, including the likes of Panamanian General Manuel Noriega, were implicated in the drug trade, but then simultaneously treated this reality as a conspiracy theory.

Squaring the Circle

Only occasionally did a major news outlet seek to square this circle, such as during Noriega's drug-trafficking trial in 1991 when U.S. prosecutors called as a witness Colombian MedellÃn cartel kingpin Carlos Lehder, who, along with implicating Noriega, testified that the cartel had given $10 million to the Contras, an allegation first unearthed by Sen. Kerry.

"The Kerry hearings didn't get the attention they deserved at the time," a *Washington Post* editorial on Nov. 27, 1991, acknowledged. "The Noriega trial brings this sordid aspect of the Nicaraguan engagement to fresh public attention."

However, the *Post* offered its readers no explanation for why Kerry's hearings had been largely ignored, with the *Post* itself a leading culprit in this journalistic misfeasance. Nor did the *Post* and the other leading newspapers use the opening created by the Noriega trial to do anything to rectify their past

neglect.

And, everything quickly returned to the status quo in which the desired perception of the noble Contras trumped the clear reality of their criminal activities.

So, from 1991 until 1996, the Contra-cocaine scandal remained a disturbing story not just about the skewed moral compass of the Reagan administration but also about how the U.S. news media had lost its way.

The scandal was a dirty secret that was best kept out of public view and away from a thorough discussion. After all, the journalistic careerists who had played along with the U.S. government's Contra defenders had advanced inside their media corporations. As good team players, they had moved up to be bureau chiefs and other news executives. They had no interest in revisiting one of the big stories that they had downplayed as a prerequisite for their success.

Pariahs

Meanwhile, those journalists who had exposed these national security crimes mostly saw their careers sink or at best slide sideways. We were regarded as "pariahs" in our profession. We were "conspiracy theorists," even though our journalism had proven to be correct again and again.

The *Post*'s admission that the Contra-cocaine scandal "didn't get the attention it deserved" didn't lead to any soul-searching inside the U.S. news media, nor did it result in any rehabilitation of the careers of the reporters who had tried to put a spotlight on this especially vile secret.

As for me, after losing battle after battle with my *Newsweek* editors (who despised the Iran-Contra scandal that I had worked so hard to expose), I departed the magazine in June 1990 to write a book (called *Fooling America*) about the decline of the Washington press corps and the parallel rise of the new generation of government propagandists.

I was also hired by PBS *Frontline* to investigate whether there had been a prequel to the Iran-Contra scandal, whether those arms-for-hostage deals in the mid-1980s had been preceded by contacts between Reagan's 1980 campaign staff and Iran, which was then holding 52 Americans hostage and essentially destroying Jimmy Carter's reelection hopes. [For more on that topic, see Robert Parry's *Secrecy & Privilege*.]

Then, in 1995, frustrated by the pervasive triviality that had come to define American journalism, and acting on the advice of and with the assistance of my oldest son Sam, I turned to a new medium and launched the Internet's first

investigative news magazine, known as *Consortiumnews.com*. The Web site became a way for me to put out well-reported stories that my former mainstream colleagues seemed determined to ignore or mock.

So, when Gary Webb called me that day in 1996, I knew that he was charging into some dangerous journalistic terrain, though he thought he was simply pursuing a great story. After his call, it struck me that perhaps the only way for the Contra-cocaine story to ever get the attention that it deserved was for someone outside the Washington media culture to do the work.

When Webb's "Dark Alliance" series finally appeared in late August 1996, it initially drew little attention. The major national news outlets applied their usual studied indifference to a topic that they had already judged unworthy of serious attention.

It was also clear that the media careerists who had climbed up their corporate ladders by accepting the conventional wisdom that the Contra-cocaine story was a conspiracy theory weren't about to look back down and admit that they had contributed to a major journalistic failure to inform and protect the American public.

Hard to Ignore

But Webb's story proved hard to ignore. First, unlike the work that Barger and I did for AP in the mid-1980s, Webb's series wasn't just a story about drug traffickers in Central America and their protectors in Washington. It was about the on-the-ground consequences, inside the United States, of that drug trafficking, how the lives of Americans were blighted and destroyed as the collateral damage of a U.S. foreign policy initiative.

In other words, there were real-life American victims, and they were concentrated in African-American communities. That meant the ever-sensitive issue of race had been injected into the controversy. Anger from black communities spread quickly to the Congressional Black Caucus, which started demanding answers.

Secondly, the *San Jose Mercury News*, which was the local newspaper for Silicon Valley, had posted documents and audio on its state-of-the-art Internet site. That way, readers could examine much of the documentary support for the series.

It also meant that the traditional "gatekeeper" role of the major newspapers, the *New York Times*, the *Washington Post*, and the *Los Angeles Times* , was under assault. If a regional paper like the *Mercury News* could finance a major journalistic investigation like this one, and circumvent the judgments of the editorial boards at the Big Three, then there might be a tectonic shift in the

power relations of the U.S. news media. There could be a breakdown of the established order.

This combination of factors led to the next phase of the Contra-cocaine battle: the "get-Gary-Webb" counterattack. The first major shot against Webb and his "Dark Alliance" series did not come from the Big Three but from the rapidly expanding right-wing news media, which was in no mood to accept the notion that some of President Reagan's beloved Contras were drug traffickers. That would have cast a shadow over the Reagan Legacy, which the Right was elevating to mythic status.

It fell to Rev. Sun Myung Moon's right-wing *Washington Times* to begin the anti-Webb vendetta. Moon, a South Korean theocrat who fancied himself the new Messiah, had founded his newspaper in 1982 partly to protect Ronald Reagan's political flanks and partly to ensure that he had powerful friends in high places. In the mid-1980s, the *Washington Times* went so far as to raise money to assist Reagan's Contra "freedom fighters."

Self-Interested Testimony

To refute Webb's three-part series, the *Washington Times* turned to some ex-CIA officials, who had participated in the Contra war, and quoted them denying the story. Soon, the *Washington Post*, the *New York Times*, and the *Los Angeles Times* were lining up behind the *Washington Times* to trash Webb and his story.

On Oct. 4, 1996, the *Washington Post* published a front-page article knocking down Webb's series, although acknowledging that some Contra operatives did help the cocaine cartels.

The *Post*'s approach was twofold, fitting with the national media's cognitive dissonance on the topic of Contra cocaine: first, the *Post* presented the Contra-cocaine allegations as old news, "even CIA personnel testified to Congress they knew that those covert operations involved drug traffickers," the *Post* sniffed, and second, the *Post* minimized the importance of the one Contra smuggling channel that Webb had highlighted in his series, saying that it had not "played a major role in the emergence of crack."

A *Post* sidebar story dismissed African-Americans as prone to "conspiracy fears."

Next, the *New York Times* and the *Los Angeles Times* weighed in with lengthy articles castigating Webb and "Dark Alliance." The big newspapers made much of the CIA's internal reviews in 1987 and 1988, almost a decade earlier, that supposedly had cleared the spy agency of any role in Contra-cocaine smuggling.

But the CIA's cover-up began to weaken on Oct. 24, 1996, when CIA Inspector

General Frederick Hitz conceded before the Senate Intelligence Committee that the first CIA probe had lasted only12 days, and the second only three days. He promised a more thorough review.

Mocking Webb

Webb, however, had already crossed over from being a serious journalist to a target of ridicule. Influential *Post* media critic Howard Kurtz mocked Webb for saying in a book proposal that he would explore the possibility that the Contra war was primarily a business to its participants. “Oliver Stone, check your voice mail,” Kurtz chortled.

However, Webb’s suspicion was no conspiracy theory. Indeed, White House aide Oliver North’s chief Contra emissary, Robert Owen, had made the same point in a March 17, 1986, message about the Contras leadership. “Few of the so-called leaders of the movement . . . really care about the boys in the field,” Owen wrote. “THIS WAR HAS BECOME A BUSINESS TO MANY OF THEM.” [Emphasis in original.]

In other words, Webb was right and Kurtz was wrong, even Oliver North’s emissary had reported that many Contra leaders treated the conflict as “a business.” But accuracy had ceased to be relevant in the media’s hazing of Gary Webb.

In another double standard, while Webb was held to the strictest standards of journalism, it was entirely all right for Kurtz, the supposed arbiter of journalistic integrity who was also featured on CNN’s *Reliable Sources* , to make judgments based on ignorance. Kurtz would face no repercussions for mocking a fellow journalist who was factually correct.

The Big Three’s assault, combined with their disparaging tone, had a predictable effect on the executives of the *Mercury News*. As it turned out, Webb’s confidence in his editors had been misplaced. By early 1997, executive editor Jerry Ceppos, who had his own corporate career to worry about, was in retreat.

On May 11, 1997, Ceppos published a front-page column saying the series “fell short of my standards.” He criticized the stories because they “strongly implied CIA knowledge” of Contra connections to U.S. drug dealers who were manufacturing crack cocaine. “We did not have enough proof that top CIA officials knew of the relationship,” Ceppos wrote.

Ceppos was wrong about the proof, of course. At AP, before we published our first Contra-cocaine article in 1985, Barger and I had known that the CIA and Reagan’s White House were aware of the Contra-cocaine problem.

However, Ceppos had recognized that he and his newspaper were facing a credibility crisis brought on by the harsh consensus delivered by the Big Three,

a judgment that had quickly solidified into conventional wisdom throughout the major news media and inside Knight-Ridder, Inc., which owned the *Mercury News*. The only career-saving move career-saving for Ceppos even if career-destroying for Webb was to jettison Webb and his journalism.

A 'Vindication'

The big newspapers and the Contras' defenders celebrated Ceppos's retreat as vindication of their own dismissal of the Contra-cocaine stories. In particular, Kurtz seemed proud that his demeaning of Webb now had the endorsement of Webb's editor.

Ceppos next pulled the plug on the *Mercury News*' continuing Contra-cocaine investigation and reassigned Webb to a small office in Cupertino, California, far from his family. Webb resigned from the paper in disgrace.

For undercutting Webb and other *Mercury News* reporters working on the Contra-cocaine investigation, Ceppos was lauded by the *American Journalism Review* and was given the 1997 national Ethics in Journalism Award by the Society of Professional Journalists.

While Ceppos won raves, Webb watched his career collapse and his marriage break up. Still, Gary Webb had set in motion internal government investigations that would bring to the surface long-hidden facts about how the Reagan administration had conducted the Contra war.

The CIA published the first part of Inspector General Hitz's findings on Jan. 29, 1998. Though the CIA's press release for the report criticized Webb and defended the CIA, Hitz's *Volume One* admitted that not only were many of Webb's allegations true but that he actually understated the seriousness of the Contra-drug crimes and the CIA's knowledge of them.

Hitz conceded that cocaine smugglers played a significant early role in the Contra movement and that the CIA intervened to block an image-threatening 1984 federal investigation into a San Franciscobased drug ring with suspected ties to the Contras, the so-called "Frogman Case."

After *Volume One* was released, I called Webb (whom I had met personally since his series was published). I chided him for indeed getting the story "wrong." He had understated how serious the problem of Contra-cocaine trafficking had been.

It was a form of gallows humor for the two of us, since nothing had changed in the way the major newspapers treated the Contra-cocaine issue. They focused only on the press release that continued to attack Webb, while ignoring the incriminating information that could be found in the body of the report. All I

could do was highlight those admissions at *Consortiumnews.com*, which sadly had a much, much smaller readership than the Big Three.

Looking the Other Way

The major U.S. news media also looked the other way on other startling disclosures.

On May 7, 1998, for instance, Rep. Maxine Waters, a California Democrat, introduced into the Congressional Record a Feb. 11, 1982, letter of understanding between the CIA and the Justice Department. The letter, which had been requested by CIA Director William Casey, freed the CIA from legal requirements that it must report drug smuggling by CIA assets, a provision that covered both the Nicaraguan Contras and the Afghan mujahedeen.

In other words, early in those two covert wars, the CIA leadership wanted to make sure that its geopolitical objectives would not be complicated by a legal requirement to turn in its client forces for drug trafficking.

The next break in the long-running Contra-cocaine cover-up was a report by the Justice Department's Inspector General Michael Bromwich.

Given the hostile climate surrounding Webb's series, Bromwich's report also opened with criticism of Webb. But, like the CIA's *Volume One*, the contents revealed new details about government wrongdoing. According to evidence cited by Bromwich, the Reagan administration knew almost from the outset of the Contra war that cocaine traffickers permeated the paramilitary operation. The administration also did next to nothing to expose or stop the crimes.

Bromwich's report revealed example after example of leads not followed, corroborated witnesses disparaged, official law-enforcement investigations sabotaged, and even the CIA facilitating the work of drug traffickers.

The report showed that the Contras and their supporters ran several parallel drug-smuggling operations, not just the one at the center of Webb's series. The report also found that the CIA shared little of its information about Contra drugs with law-enforcement agencies and on three occasions disrupted cocaine-trafficking investigations that threatened the Contras.

As well as depicting a more widespread Contra-drug operation than Webb had understood, the Justice Department report provided some important corroboration about a Nicaraguan drug smuggler, Norwin Meneses, who was a key figure in Webb's series.

Bromwich cited U.S. government informants who supplied detailed information

about Meneses's drug operation and his financial assistance to the Contras. For instance, Renato Pena, a money-and-drug courier for Meneses, said that in the early 1980s the CIA allowed the Contras to fly drugs into the United States, sell them, and keep the proceeds.

Pena, who was the northern California representative for the CIA-backed Nicaraguan Democratic Force (FDN) Contra army, said the drug trafficking was forced on the Contras by the inadequate levels of U.S. government assistance.

DEA Troubles

The Justice Department report also disclosed repeated examples of the CIA and U.S. embassies in Central America discouraging DEA investigations, including one into Contra-cocaine shipments moving through the international airport in El Salvador.

Inspector General Bromwich said secrecy trumped all. "We have no doubt that the CIA and the U.S. Embassy were not anxious for the DEA to pursue its investigation at the airport," he wrote.

Bromwich also described the curious case of how a DEA pilot helped a CIA asset escape from Costa Rican authorities in 1989 after the man, American farmer John Hull, had been charged in connection with Contra-cocaine trafficking.

Hull's ranch in northern Costa Rica had been the site of Contra camps for attacking Nicaragua from the south. For years, Contra-connected witnesses also said Hull's property was used for the transshipment of cocaine en route to the United States, but those accounts were brushed aside by the Reagan administration and disparaged in major U.S. newspapers.

Yet, according to Bromwich's report, the DEA took the accounts seriously enough to prepare a research report on the evidence in November 1986. In it, one informant described Colombian cocaine off-loaded at an airstrip on Hull's ranch. The drugs were then concealed in a shipment of frozen shrimp and transported to the United States.

The alleged Costa Rican shipper was Frigorificos de Puntarenas, a firm controlled by Cuban-American Luis Rodriguez. Like Hull, however, Frigorificos had friends in high places. In 1985-86, the State Department had selected the shrimp company to handle $261,937 in non-lethal assistance earmarked for the Contras.

Hull also remained a man with powerful protectors. Even after Costa Rican authorities brought drug charges against him, influential Americans, including Rep. Lee Hamilton, D-Indiana, demanded that Hull be let out of jail pending

trial. Then, in July 1989 with the help of a DEA pilot and possibly a DEA agent Hull managed to fly out of Costa Rica to Haiti and then to the United States. [See Consortiumnews.com's "John Hull's Great Escape."]

Despite these new disclosures, the big newspapers still showed no inclination to read beyond the criticism of Webb in the press release and the executive summary.

Major Disclosures

By fall 1998, Washington was obsessed with President Bill Clinton's Monica Lewinsky sex scandal, which made it easier to ignore even more stunning Contra-cocaine disclosures in the CIA's *Volume Two,* published on Oct. 8, 1998.

In the report, CIA Inspector General Hitz identified more than 50 Contras and Contra-related entities implicated in the drug trade. He also detailed how the Reagan administration had protected these drug operations and frustrated federal investigations throughout the 1980s.

According to *Volume Two*, the CIA knew the criminal nature of its Contra clients from the start of the war against Nicaragua's leftist Sandinista government. The earliest Contra force, called the Nicaraguan Revolutionary Democratic Alliance (ADREN) or the 15th of September Legion, had chosen "to stoop to criminal activities in order to feed and clothe their cadre," according to a June 1981 draft of a CIA field report.

According to a September 1981 cable to CIA headquarters, two ADREN members made the first delivery of drugs to Miami in July 1981. ADREN's leaders included Enrique BermÃºdez and other early Contras who would later direct the major Contra army, the CIA-organized FDN which was based in Honduras, along Nicaragua's northern border.

Throughout the war, BermÃºdez remained the top Contra military commander. The CIA later corroborated the allegations about ADREN's cocaine trafficking, but insisted that BermÃºdez had opposed the drug shipments to the United States that went ahead nonetheless.

The truth about BermÃºdez's supposed objections to drug trafficking, however, was less clear. According to Hitz's *Volume One*, BermÃºdez enlisted Norwin Meneses, a large-scale Nicaraguan cocaine smuggler and a key figure in Webb's series, to raise money and buy supplies for the Contras.

Volume One had quoted a Meneses associate, another Nicaraguan trafficker named Danilo BlandÃ³n, who told Hitz's investigators that he and Meneses flew to Honduras to meet with BermÃºdez in 1982. At the time, Meneses's criminal

activities were well-known in the Nicaraguan exile community. But BermÃºdez told the cocaine smugglers that “the ends justify the means” in raising money for the Contras.

After the BermÃºdez meeting, Contra soldiers helped Meneses and BlandÃ³n get past Honduran police who briefly arrested them on drug-trafficking suspicions. After their release, BlandÃ³n and Meneses traveled on to Bolivia to complete a cocaine transaction.

There were other indications of BermÃºdez’s drug-smuggling tolerance. In February 1988, another Nicaraguan exile linked to the drug trade accused BermÃºdez of participation in narcotics trafficking, according to Hitz’s report. After the Contra war ended, BermÃºdez returned to Managua, Nicaragua, where he was shot to death on Feb. 16, 1991. The murder has never been solved.

The Southern Front

Along the Southern Front, the Contras’ military operations in Costa Rica on Nicaragua’s southern border, the CIA’s drug evidence centered on the forces of EdÃ©n Pastora, another top Contra commander. But Hitz discovered that the U.S. government may have made the drug situation worse, not better.

Hitz revealed that the CIA put an admitted drug operative, known by his CIA pseudonym “Ivan Gomez”, in a supervisory position over Pastora. Hitz reported that the CIA discovered Gomez’s drug history in 1987 when Gomez failed a security review on drug-trafficking questions.

In internal CIA interviews, Gomez admitted that in March or April 1982, he helped family members who were engaged in drug trafficking and money laundering. In one case, Gomez said he assisted his brother and brother-in-law in transporting cash from New York City to Miami. He admitted that he “knew this act was illegal.”

Later, Gomez expanded on his admission, describing how his family members had fallen $2 million into debt and had gone to Miami to run a money-laundering center for drug traffickers. Gomez said “his brother had many visitors whom [Gomez] assumed to be in the drug trafficking business.” Gomez’s brother was arrested on drug charges in June 1982. Three months later, in September 1982, Gomez started his CIA assignment in Costa Rica.

Years later, convicted drug trafficker Carlos Cabezas alleged that in the early 1980s, Ivan Gomez was the CIA agent in Costa Rica who was overseeing drug-money donations to the Contras. Gomez “was to make sure the money was given to the right people [the Contras] and nobody was taking . . . profit they weren’t supposed to,” Cabezas stated publicly.

But the CIA sought to discredit Cabezas at the time because he had trouble identifying Gomez's picture and put Gomez at one meeting in early 1982 before Gomez started his CIA assignment.

While the CIA was able to fend off Cabezas's allegations by pointing to these discrepancies, Hitz's report revealed that the CIA was nevertheless aware of Gomez's direct role in drug-money laundering, a fact the agency hid from Sen. Kerry in his 1987 investigation.

Cocaine Coup

There was also more to know about Gomez. In November 1985, the Federal Bureau of Investigation (FBI) learned from an informant that Gomez's two brothers had been large-scale cocaine importers, with one brother arranging shipments from Bolivia's infamous drug kingpin Roberto Suarez.

Suarez already was known as a financier of right-wing causes. In 1980, with the support of Argentina's hard-line anticommunist military regime, Suarez bankrolled a coup in Bolivia that ousted the elected left-of-center government. The violent putsch became known as the Cocaine Coup because it made Bolivia the region's first narco-state.

By protecting cocaine shipments headed north, Bolivia's government helped transform Colombia's MedellÃn cartel from a struggling local operation into a giant corporate-style business for delivering cocaine to the U.S. market.

Flush with cash in the early 1980s, Suarez invested more than $30 million in various right-wing paramilitary operations, including the Contra forces in Central America, according to U.S. Senate testimony by an Argentine intelligence officer, Leonardo Sanchez-Reisse.

In 1987, Sanchez-Reisse said the Suarez drug money was laundered through front companies in Miami before going to Central America. There, other Argentine intelligence officers, veterans of the Bolivian coup, trained the Contras in the early 1980s, even before the CIA arrived to first assist with the training and later take over the Contra operation from the Argentines.

Inspector General Hitz added another piece to the mystery of the Bolivian-Contra connection. One Contra fund-raiser, Jose Orlando Bolanos, boasted that the Argentine government was supporting his Contra activities, according to a May 1982 cable to CIA headquarters. Bolanos made the statement during a meeting with undercover DEA agents in Florida. He even offered to introduce them to his Bolivian cocaine supplier.

Despite all this suspicious drug activity centered around Ivan Gomez and the

Contras, the CIA insisted that it did not unmask Gomez until 1987, when he failed a security check and confessed his role in his family's drug business. The CIA official who interviewed Gomez concluded that "Gomez directly participated in illegal drug transactions, concealed participation in illegal drug transactions, and concealed information about involvement in illegal drug activity," Hitz wrote.

Protecting Gomez

But senior CIA officials still protected Gomez. They refused to refer the Gomez case to the Justice Department, citing the 1982 agreement that spared the CIA from a legal obligation to report narcotics crimes by people collaborating with the CIA who were not formal agency employees.

Gomez was an independent contractor who worked for the CIA but was not officially on staff. The CIA eased Gomez out of the agency in February 1988, without alerting law enforcement or the congressional oversight committees.

When questioned about the case nearly a decade later, one senior CIA official who had supported the gentle treatment of Gomez had second thoughts. "It is a striking commentary on me and everyone that this guy's involvement in narcotics didn't weigh more heavily on me or the system," the official acknowledged to Hitz's investigators.

A MedellÃn drug connection arose in another section of Hitz's report, when he revealed evidence suggesting that some Contra trafficking may have been sanctioned by Reagan's NSC. The protagonist for this part of the Contra-cocaine mystery was Moises Nunez, a Cuban-American who worked for Oliver North's NSC Contra-support operation and for two drug-connected seafood importers, Ocean Hunter in Miami and Frigorificos De Puntarenas in Costa Rica.

Frigorificos De Puntarenas was created in the early 1980s as a cover for drug-money laundering, according to sworn testimony by two of the firm's principals, Carlos Soto and MedellÃn cartel accountant Ramon Milian Rodriguez. (It was also the company implicated by a DEA informant in moving cocaine from John Hull's ranch to the United States.)

Drug allegations were swirling around Moises Nunez by the mid-1980s. Indeed, his operation was one of the targets of my and Barger's AP investigation in 1985. Finally reacting to these suspicions, the CIA questioned Nunez about his alleged cocaine trafficking on March 25, 1987. He responded by pointing the finger at his NSC superiors.

"Nunez revealed that since 1985, he had engaged in a clandestine relationship with the National Security Council," Hitz reported, adding: "Nunez 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. Nunez refused to identify the NSC officials with whom he had been involved."

After this first round of questioning, CIA headquarters authorized an additional session, but then senior CIA officials reversed the decision. There would be no further efforts at "debriefing Nunez."

Hitz noted that "the cable [from headquarters] offered no explanation for the decision" to stop the Nunez interrogation. But the CIA's Central American Task Force chief Alan Fiers Jr. said the Nunez-NSC drug lead was not pursued "because of the NSC connection and the possibility that this could be somehow connected to the Private Benefactor program [the Contra money handled by North] a decision was made not to pursue this matter."

Joseph Fernandez, who had been the CIA's station chief in Costa Rica, confirmed to congressional Iran-Contra investigators that Nunez "was involved in a very sensitive operation" for North's "Enterprise." The exact nature of that NSC-authorized activity has never been divulged.

At the time of the Nunez-NSC drug admissions and his truncated interrogation, the CIA's acting director was Robert Gates, who nearly two decades later became President George W. Bush's second secretary of defense, a position he retained under President Barack Obama.

Drug Record

The CIA also worked directly with other drug-connected Cuban-Americans on the Contra project, Hitz found. One of Nunez's Cuban-American associates, Felipe Vidal, had a criminal record as a narcotics trafficker in the 1970s. But the CIA still hired him to serve as a logistics coordinator for the Contras, Hitz reported.

The CIA also learned that Vidal's drug connections were not only in the past. A December 1984 cable to CIA headquarters revealed Vidal's ties to Rene Corvo, another Cuban-American suspected of drug trafficking. Corvo was working with Cuban anticommunist Frank Castro, who was viewed as a MedellÃn cartel representative within the Contra movement.

There were other narcotics links to Vidal. In January 1986, the DEA in Miami seized 414 pounds of cocaine concealed in a shipment of yucca that was going from a Contra operative in Costa Rica to Ocean Hunter, the company where Vidal (and Moises Nunez) worked. Despite the evidence, Vidal remained a CIA employee as he collaborated with Frank Castro's assistant, Rene Corvo, in raising money

for the Contras, according to a CIA memo in June 1986.

By fall 1986, Sen. Kerry had heard enough rumors about Vidal to demand information about him as part of his congressional inquiry into Contra drugs. But the CIA withheld the derogatory information in its files. On Oct. 15, 1986, Kerry received a briefing from the CIA's Alan Fiers Jr., who didn't mention Vidal's drug arrests and conviction in the 1970s.

But Vidal was not yet in the clear. In 1987, the U.S. Attorney's Office in Miami began investigating Vidal, Ocean Hunter, and other Contra-connected entities. This prosecutorial attention worried the CIA. The CIA's Latin American division felt it was time for a security review of Vidal. But on Aug. 5, 1987, the CIA's security office blocked the review for fear that the Vidal drug information "could be exposed during any future litigation."

As expected, the U.S. Attorney's Office did request documents about "Contra-related activities" by Vidal, Ocean Hunter, and 16 other entities. The CIA advised the prosecutor that "no information had been found regarding Ocean Hunter," a statement that was clearly false. The CIA continued Vidal's employment as an adviser to the Contra movement until 1990, virtually the end of the Contra war.

FDN Connections

Hitz also revealed that drugs tainted the highest levels of the Honduran-based FDN, the largest Contra army. Hitz found that Juan Rivas, a Contra commander who rose to be chief of staff, admitted that he had been a cocaine trafficker in Colombia before the war.

The CIA asked Rivas, known as El Quiche, about his background after the DEA began suspecting that Rivas might be an escaped convict from a Colombian prison. In interviews with CIA officers, Rivas acknowledged that he had been arrested and convicted of packaging and transporting cocaine for the drug trade in Barranquilla, Colombia. After several months in prison, Rivas said, he escaped and moved to Central America, where he joined the Contras.

Defending Rivas, CIA officials insisted that there was no evidence that Rivas engaged in trafficking while with the Contras. But one CIA cable noted that he lived an expensive lifestyle, even keeping a $100,000 Thoroughbred horse at the Contra camp. Contra military commander BermÃºdez later attributed Rivas's wealth to his ex-girlfriend's rich family. But a CIA cable in March 1989 added that "some in the FDN may have suspected at the time that the father-in-law was engaged in drug trafficking."

Still, the CIA moved quickly to protect Rivas from exposure and possible

extradition to Colombia. In February 1989, CIA headquarters asked that the DEA take no action “in view of the serious political damage to the U.S. Government that could occur should the information about Rivas become public.” Rivas was eased out of the Contra leadership with an explanation of poor health. With U.S. government help, he was allowed to resettle in Miami. Colombia was not informed about his fugitive status.

Another senior FDN official implicated in the drug trade was its chief spokesman in Honduras, Arnoldo Jose “Frank” Arana.

The drug allegations against Arana dated back to 1983 when a federal narcotics task force put him under criminal investigation because of plans “to smuggle 100 kilograms of cocaine into the United States from South America.” On Jan. 23, 1986, the FBI reported that Arana and his brothers were involved in a drug-smuggling enterprise, although Arana was not charged.

Arana sought to clear up another set of drug suspicions in 1989 by visiting the DEA in Honduras with a business associate, Jose Perez. Arana’s association with Perez, however, only raised new alarms. If “Arana is mixed up with the Perez brothers, he is probably dirty,” the DEA said.

Drug Airlines

Through their ownership of an air services company called SETCO, the Perez brothers were associated with Juan Matta-Ballesteros, a major cocaine kingpin connected to the murder of a DEA agent, according to reports by the DEA and U.S. Customs. Hitz reported that someone at the CIA scribbled a note on a DEA cable about Arana stating: “Arnold Arana . . . still active and working, we [CIA] may have a problem.”

Despite its drug ties to Matta-Ballesteros, SETCO emerged as the principal company for ferrying supplies to the Contras in Honduras. During congressional Iran-Contra hearings, FDN political leader Adolfo Calero testified that SETCO was paid from bank accounts controlled by Oliver North. SETCO also received $185,924 from the State Department for ferrying supplies to the Contras in 1986. Furthermore, Hitz found that other air transport companies used by the Contras were implicated in the cocaine trade as well.

Even FDN leaders suspected that they were shipping supplies to Central America aboard planes that might be returning with drugs. Mario Calero, the chief of Contra logistics, grew so uneasy about one air freight company that he notified U.S. law enforcement that the FDN only chartered the planes for the flights south, not the return flights north.

Hitz found that some drug pilots simply rotated from one sector of the Contra

operation to another. Donaldo Frixone, who had a drug record in the Dominican Republic, was hired by the CIA to fly Contra missions from 1983 to 1985. In September 1986, however, Frixone was implicated in smuggling 19,000 pounds of marijuana into the United States. In late 1986 or early 1987, he went to work for Vortex, another U.S.-paid Contra supply company linked to the drug trade.

By the time that Hitz's Volume Two was published in fall 1998, the CIA's defense against Webb's series had shrunk to a fig leaf: that the CIA did not *conspire* with the Contras to raise money through cocaine trafficking. But Hitz made clear that the Contra war took precedence over law enforcement and that the CIA withheld evidence of Contra crimes from the Justice Department, Congress, and even the CIA's own analytical division.

Besides tracing the evidence of Contra-drug trafficking through the decade-long Contra war, the inspector general interviewed senior CIA officers who acknowledged that they were aware of the Contra-drug problem but didn't want its exposure to undermine the struggle to overthrow Nicaragua's leftist Sandinista government.

According to Hitz, the CIA had "one overriding priority: to oust the Sandinista government. . . . [CIA officers] were determined that the various difficulties they encountered not be allowed to prevent effective implementation of the Contra program." One CIA field officer explained, "The focus was to get the job done, get the support and win the war."

Hitz also recounted complaints from CIA analysts that CIA operations officers handling the Contras hid evidence of Contra-drug trafficking even from the CIA's analysts.

Because of the withheld evidence, the CIA analysts incorrectly concluded in the mid-1980s that "only a handful of Contras might have been involved in drug trafficking." That false assessment was passed on to Congress and to major news organizations, serving as an important basis for denouncing Gary Webb and his "Dark Alliance" series in 1996.

CIA Admission

Although Hitz's report was an extraordinary admission of institutional guilt by the CIA, it went almost unnoticed by the big American newspapers.

On Oct. 10, 1998, two days after Hitz's Volume Two was posted on the CIA's Web site, the *New York Times* published a brief article that continued to deride Webb but acknowledged the Contra-drug problem may have been worse than earlier understood. Several weeks later, the *Washington Post* weighed in with a similarly superficial article. The *Los Angeles Times* never published a story on the

release of Hitz's Volume Two.

In 2000, the House Intelligence Committee grudgingly acknowledged that the stories about Reagan's CIA protecting Contra drug traffickers were true. The committee released a report citing classified testimony from CIA Inspector General Britt Snider (Hitz's successor) admitting that the spy agency had turned a blind eye to evidence of Contra-drug smuggling and generally treated drug smuggling through Central America as a low priority.

"In the end the objective of unseating the Sandinistas appears to have taken precedence over dealing properly with potentially serious allegations against those with whom the agency was working," Snider said, adding that the CIA did not treat the drug allegations in "a consistent, reasoned or justifiable manner."

The House committee, then controlled by Republicans, still downplayed the significance of the Contra-cocaine scandal, but the panel acknowledged, deep inside its report, that in some cases, "CIA employees did nothing to verify or disprove drug trafficking information, even when they had the opportunity to do so. In some of these, receipt of a drug allegation appeared to provoke no specific response, and business went on as usual."

Like the release of Hitz's report in 1998, the admissions by Snider and the House committee drew virtually no media attention in 2000, except for a few articles on the Internet, including one at *Consortiumnews.com*.

Unrepentant Press

Because of this misuse of power by the Big Three newspapers, choosing to conceal their own journalistic failings regarding the Contra-cocaine scandal and to protect the Reagan administration's image, Webb's reputation was never rehabilitated.

After his original "Dark Alliance" series was published in 1996, Webb had been inundated with attractive book offers from major publishing houses, but once the vilification began, the interest evaporated. Webb's agent contacted an independent publishing house, Seven Stories Press, which had a reputation for publishing books that had been censored, and it took on the project.

After *Dark Alliance: The CIA, the Contras, and the Crack Cocaine Explosion* was published in 1998, I joined Webb in a few speaking appearances on the West Coast, including one packed book talk at the Midnight Special bookstore in Santa Monica, California. For a time, Webb was treated as a celebrity on the American Left, but that gradually faded.

In our interactions during these joint appearances, I found Webb to be a regular guy who seemed to be holding up fairly well under the terrible pressure. He had landed an investigative job with a California state legislative committee. He also felt some measure of vindication when CIA Inspector General Hitz's reports came out.

However, Webb never could overcome the pain caused by his betrayal at the hands of his journalistic colleagues, his peers. In the years that followed, Webb was unable to find decent-paying work in his profession, the conventional wisdom remained that he had somehow been exposed as a journalistic fraud. His state job ended; his marriage fell apart; he struggled to pay bills; and he was faced with a move out of a modest rental house near Sacramento, California.

On Dec. 9, 2004, the 49-year-old Webb typed out suicide notes to his ex-wife and his three children; laid out a certificate for his cremation; and taped a note on the door telling movers, who were coming the next morning, to instead call 911. Webb then took out his father's pistol and shot himself in the head. The first shot was not lethal, so he fired once more.

Even with Webb's death, the big newspapers that had played key roles in his destruction couldn't bring themselves to show Webb any mercy. After Webb's body was found, I received a call from a reporter for the *Los Angeles Times* who knew that I was one of Webb's few journalistic colleagues who had defended him and his work.

I told the reporter that American history owed a great debt to Gary Webb because he had forced out important facts about Reagan-era crimes. But I added that the *Los Angeles Times* would be hard-pressed to write an honest obituary because the newspaper had not published a single word on the contents of Hitz's final report, which had largely vindicated Webb.

To my disappointment but not my surprise, I was correct. The *Los Angeles Times* ran a mean-spirited obituary that made no mention of either my defense of Webb, nor the CIA's admissions in 1998. The obituary was republished in other newspapers, including the *Washington Post*.

In effect, Webb's suicide enabled senior editors at the Big Three newspapers to breathe a little easier, one of the few people who understood the ugly story of the Reagan administration's cover-up of the Contra-cocaine scandal and the U.S. media's complicity was now silenced.

To this day, none of the journalists or media critics who participated in the destruction of Gary Webb has paid a price for their actions. None has faced the sort of humiliation that Webb had to endure. None had to experience that special

pain of standing up for what is best in the profession of journalism, taking on a difficult story that seeks to hold powerful people accountable for serious crimes, and then being vilified by your own colleagues, the people that you expected to understand and appreciate what you had done.

On the contrary, many were rewarded with professional advancement and lucrative careers. For instance, Howard Kurtz still hosts the CNN program, “Reliable Sources,” which lectures journalists on professional standards.

[For more on related topics, see Robert Parry’s *Lost History, Secrecy & Privilege* and *Neck Deep*, now available in a three-book set for the discount price of only $29. For details, click here.]

Robert Parry broke many of the Iran-Contra stories in the 1980s for the Associated Press and Newsweek. His latest book, *Neck Deep: The Disastrous Presidency of George W. Bush,* was written with two of his sons, Sam and Nat, and can be ordered at neckdeepbook.com. His two previous books, *Secrecy & Privilege: The Rise of the Bush Dynasty from Watergate to Iraq* and *Lost History: Contras, Cocaine, the Press & ‘Project Truth’* are also available there.