

27 '11 24

UNITED STATES

TRANSCRIPT OF PROCEEDINGS

BEFORE THE

SELECT COMMITTEE ON INTELLIGENCE

FULL COMMITTEE

S
E
N
A
T
E

NOMINATION OF WILLIAM H. WEBSTER
TO BE DIRECTOR OF CENTRAL INTELLIGENCE

Wednesday, April 8, 1987

OCA 87-2437
cy# 1



WASHINGTON, D.C. 20510

4/8/87

C O N T E N T S

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATEMENT OF:

PAGE

The Honorable John C. Danforth,
A United States Senator from
the State of Missouri 24

The Honorable Christopher S. Bond,
A United States Senator from
the State of Missouri 28

The Honorable William H. Webster,
Nominee to be
Director of Central Intelligence 31

- - -

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

NOMINATION OF WILLIAM H. WEBSTER
TO BE DIRECTOR OF CENTRAL INTELLIGENCE

- - -

Wednesday, April 8, 1987

- - -

United States Senate,
Select Committee on Intelligence,
Washington, D. C.

The Select Committee met, pursuant to notice, at 10:13 o'clock a.m., in Room SD-628, Dirksen Senate Office Building, the Honorable David Boren, Chairman of the Committee, presiding.

Present: Senators Boren, Nunn, Hollings, Bradley, Cranston, DeConcini, Metzenbaum, Cohen, Roth, Hatch, Murkowski, Specter, Hecht and Warner.

Also Present: Sven E. Holmes, Staff Director/General Counsel; James Dykstra, Minority Staff Director; and Kathleen McGhee, Chief Clerk.

- - -

1

2

P R O C E E D I N G S

3

THE CHAIRMAN: The Committee will come to order.

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

We are here today to consider the nomination of William H. Webster to be the Director of Central Intelligence. This hearing itself is a unique occasion. I know of no other nation where the selection of the top intelligence official would receive so much scrutiny. This process reflects our determination that while a democracy must legitimately protect the secrecy of some information and operations, the intelligence gathering process must still be ultimately accountable to the people through their elected representatives.

Through this confirmation process, our responsibilities as the members of the Select Committee is to determine whether this nominee is qualified to serve as the Director of Central Intelligence. Accordingly, it is our responsibility to undertake a careful, thorough and fair examination of the background of this nominee. We do this in troubled times; in the midst of the present investigations by two special Congressional Committees and by an independent counsel of a covert action program involving allegations of illegal or improper activities by high government officials, including the CIA.

1 This Committee and the Senate have a duty to the
2 American people to ensure that the new Director of
3 Central Intelligence will conduct a program of effective
4 intelligence gathering within the framework of our laws
5 and our democratic institutions. It is imperative that
6 the Director of Central Intelligence be a person of
7 exceptional ability and integrity, capable of exercising
8 the independence necessary to protect against any
9 possible misuse of the Agency and its resources.

10 Judge Webster, I welcome you and feel certain that
11 you recognize the magnitude of the new challenge that
12 you have accepted. I would add to that challenge by
13 asking that in responding to our questions today, you
14 keep in mind the pressing need for this nation to bring
15 order to the disarray in our foreign policy, and the
16 need for all of us to go forward together in a
17 bipartisan way to constructively address the urgent and
18 important problems which we face.

19 As DCI, you would have three roles to perform:
20 senior intelligence advisor to the President of the
21 United States; coordinator of the entire intelligence
22 community; and Director of the Central Intelligence
23 Agency. I am sure that part of your deliberation
24 concerning your decision to accept this nomination
25 centered upon the tremendous burdens that you know from

1 your experience in counterintelligence, rests on the
2 shoulders of the Director of Central Intelligence.

3 You have served as the Chairman of the Interagency
4 Group on Counterintelligence, a committee of the
5 National Security Council. The first National
6 Counterintelligence Strategy was developed under your
7 leadership, improving the coordination between the FBI,
8 the CIA, and other related agencies.

9 If confirmed as DCI, you will chair the Senior
10 Interagency Group on Intelligence of the National
11 Security Council, which greatly increases your
12 responsibilities to further develop the overall National
13 Intelligence Strategy. We must continue to concentrate
14 on long-term strategic planning to meet the ever
15 expanding need for timely and accurate information.

16 The competing demands upon the budget and the
17 limited resources we have available make this job even
18 more difficult. Great advances have been made in our
19 intelligence capabilities, but we must continue to
20 invest in this most important endeavor.

21 Our entire intelligence effort depends upon
22 dedicated and professional career personnel, and this
23 requires concentrated attention to improve career
24 incentives and training in order to recruit the best
25 possible available talent, and also to retain present

1 valued employees. And this Committee has again and
2 again put emphasis on the personnel system and the need
3 to continue to upgrade it and improve it.

4 There appears to be some progress in the ongoing
5 arms control talks between the United States and the
6 Soviet Union. That makes it imperative for us to
7 analyze the present methods of verification and to
8 correct any shortcomings in order to guarantee our
9 national security. And if you are confirmed to this
10 post as Director of Central Intelligence, of course
11 those of us who serve on this Committee jointly have a
12 heavy responsibility in the area of assuring the ability
13 to verify any arms control agreement.

14 This Committee is interested in your activities
15 with respect to the Iran-contra matter, and we
16 appreciate your responding to some written questions
17 that the Vice Chairman and I sent to you to supplement
18 the standard Committee questionnaire for nominees. We
19 have also received letters regarding your nomination
20 from Representative Don Edwards, Chairman of the House
21 Judiciary Subcommittee that oversees the FBI, and from
22 Representative Pat Schroeder. Both are concerned about
23 recent allegations of improper FBI activity. In
24 addition, we have received statements from the Center
25 for Constitutional Rights, the National Committee

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Against Repressive Legislation, and from the Arab American Institute. Without objection, these statements and letters will be placed in the record at this point.

(The documents referred to follow:)

1 THE CHAIRMAN: Also, I would like to enter at this
2 point into the record for consideration by the
3 Committee, the background and financial disclosure
4 statement filed by Judge Webster with the Committee,
5 pursuant to Committee Rule 5.6. And I would also
6 mention that the Committee has taken action to authorize
7 the Chairman to release unclassified excerpts of the
8 testimony of Attorney General Meese before the Select
9 Committee on Intelligence during the preliminary inquiry
10 into the sale of arms to Iran and possible diversion of
11 funds to the Nicaraguan resistance. And without
12 objection, this testimony by Attorney General Meese
13 before the Committee will be entered into the record at
14 this point.

15 (The document referred to follows:)
16
17
18
19
20
21
22
23
24
25

1 THE CHAIRMAN: At this time I will turn to the
2 other members of the Committee for opening statements
3 and comments which they might have, beginning with the
4 Vice Chairman, Senator Cohen.

5 SENATOR COHEN: Thank you very much, Mr. Chairman.
6 Judge Webster, I want to welcome you to the
7 Committee this morning along with the two Show-Me
8 Senators from Missouri. Of course, we have had a chance
9 to work with you in the past several years in your
10 capacity as FBI Director, and in that position you have
11 had primary responsibility for U.S. counterintelligence
12 activities within this country. And personally, I
13 believe that your willingness to serve as Director of
14 Central Intelligence after those nine years as Director
15 of the Federal Bureau of Investigation really does set
16 an exemplary standard for public service. I think the
17 President ought to be congratulated for nominating a man
18 of your integrity and demonstrated ability to this
19 important post.

20 As I understand it, this represents your fifth
21 confirmation proceeding. I think by this time you know
22 what to do and we'll see if we can't make it
23 interesting.

24 This comes at a time when the CIA and the
25 intelligence community as a whole are in a degree of

1 turmoil, when their involvement in the Iran arms sale
2 and the assistance to the Nicaraguan contras is the
3 subject of investigations and of media inquiry, when we
4 have shrinking budgets that are forcing difficult
5 programmatic decisions, and when it appears that there
6 are serious deficiencies in the security measures needed
7 to protect intelligence operations.

8 So in short, today, perhaps more than at any other
9 time in this Administration, the job calls for strong
10 leadership, for someone who can represent the
11 intelligence community's interests effectively and
12 credibly, and who can restore the public's confidence in
13 the intelligence community and its activities. I
14 believe your appointment as Director of Central
15 Intelligence would provide that strength and assurance.

16 As you know, and as the Chairman has indicated, you
17 wear at least two hats, possibly three, one as
18 coordinator of the U.S. intelligence activities, and the
19 other as head of the Central Intelligence Agency. In
20 both capacities, the focus of the DCI's activities is
21 external to the United States in collecting and
22 analyzing information necessary to support our defense
23 and foreign policy objectives and in undertaking other
24 types of operations, specifically covert operations.

25 These are areas that have not, for the most part,

1 been an integral part of your prior professional
2 training and experience, either as an attorney, a
3 Federal judge, or more recently, as FBI Director.

4 Accordingly, neither this Committee nor the
5 American people have a very clear perception of your
6 views on a number of fundamental questions, views which
7 we ought to know prior to voting on your confirmation as
8 DCI. These questions would include issues such as
9 covert action, the strengths and weaknesses of our
10 intelligence community, how you view the
11 responsibilities of the DCI toward the President and
12 especially toward this Congress.

13 I am hopeful that we can use the public hearing to
14 explore some of these topics with you and establish a
15 firmer understanding of your views in these areas for
16 which you will be responsible if confirmed.

17 According to today's Washington Post, you intend to
18 indicate that the Attorney General treated you like a
19 "shunned lover" on the issue of the FBI's interest in
20 investigating the Iran arms sale; that you offered your
21 services, but the phone call never came. I can assure
22 you that if you are confirmed as the Director, this
23 Committee will call upon your services. We'll be sure
24 to call you at least once a day.

25 Thank you, Mr. Chairman.

1 THE CHAIRMAN: Senator DeConcini.

2 SENATOR DeCONCINI: Mr. Chairman, I, too, welcome
3 Judge Webster, and concur with our colleagues as to the
4 outstanding service you have given to this country,
5 Judge Webster, even before you were nominated by
6 President Carter to be the Director of the FBI, as a
7 Federal jurist. I think as FBI Director you have
8 brought a tremendous amount of credibility to that
9 agency, even though there are still and probably always
10 will be certain criticisms of some of its actions, which
11 are necessary to be carried out in at least your
12 judgment and your subordinates. I welcome your
13 nomination, Judge Webster.

14 I feel that the CIA itself, though its budget has
15 increased immensely under former Director Casey, has
16 never, at least in the ten years I have been here, has
17 the CIA been in such shambles. Nor has it had such
18 image problems nationally and internationally of being
19 an agency which is not tuned in, not under control, and
20 doesn't know what it is doing. I don't think that is the
21 case, but I believe that at least from my constituents
22 and my travel, it is certainly the perception. You will
23 face the problem of how do you bring credibility that
24 you were able to bring to the FBI.

25 I want to assure you that I believe, in my short

1 tenure on this Committee, but even before, looking at
2 the quality of people who serve as Chairman and Vice
3 Chairman and the other members on this Committee, that
4 you have people here who are prepared to assist you and
5 not be destructive in maintaining and building the
6 intelligence community capacity to serve this nation.
7 I hope that you will feel comfortable after you're
8 confirmed, to confide and to consult with this
9 Committee, as often as you can.

10 I am a firm believer that foreign policy, including
11 covert activities, is based on a consensus, on a
12 bipartisan basis, and when President Reagan or Carter or
13 anyone else has run into problems, it is because he has
14 decided not to buildg a consensus. It is the Director
15 of the CIA who makes the difference, in my judgment, in
16 building that consensus. That is one of the reasons I
17 am so pleased and proud that the President has appointed
18 you, because I think you have proven you have that
19 capacity. I wish you every success.

20 I have some questions, Mr. Director, that I will
21 ask later, of course. I want you to understand these
22 are questions that are not of a critical nature, but I
23 feel should be laid out in the record. Perhaps someone
24 else with more seniority may already have touched on
25 those questions, and if so, I will remain silent.

1 Thank you. Thank you, Mr. Chairman.

2 THE CHAIRMAN: Thank you very much, Senator
3 DeConcini. Senator Roth.

4 SENATOR ROTH: Thank you, Mr. Chairman.

5 I, too, want to welcome you, Judge Webster. I was
6 very pleased when the President sent your name up for
7 this very, very important position.

8 Judge Webster, I was on the Floor this morning
9 introducing a package of espionage legislation for the
10 100th Congress. It is a broad series of measures that
11 I believe will address some of our most serious problems
12 in what could be called the Decade of the Spy. Now, my
13 reason for bringing this up at this time is that I do
14 intend to ask for your views, both as the Director of
15 the FBI and as the nominee to be the new Director of
16 Central Intelligence. Senator Dole joined me in this
17 legislation, which will include a number of separate
18 proposals, and I will advise you what they are so that
19 we can proceed when it becomes my turn to raise
20 questions. The question of restrictions on Soviet bloc
21 personnel, or the satellite nations, whether we should
22 have some restrictions on them in this country. The
23 question of whether there should be the death penalty
24 for very, very serious spy offenses. The United Nations
25 is proposing a new office for research and collection of

1 domestic information in each member country as to the
2 political situation, whether or not this offers an
3 opportunity for spying. And finally, I will be asking
4 some questions on the current impasse over the new U.S.
5 embassy in Moscow, whether or not we should permit the
6 Soviet Union to occupy the proposed buildings in the
7 city of Washington.

8 I think these are pertinent questions, and again,
9 Judge Webster, I want to welcome you here today.

10 THE CHAIRMAN: Thank you very much, Senator Roth.
11 Senator Hatch.

12 SENATOR HATCH: Thank you, Mr. Chairman.

13 Judge Webster, I have had a lot of contact with you
14 as a member of the Judiciary Committee over the last ten
15 years, and I just want to compliment you for your
16 selection for this position. And I will be very
17 interested in the hearings and will pay a great deal of
18 attention. I have a conflict, because we have the
19 Catastrophic Health Hearings upstairs in my other
20 Committee, but I will be coming in and out. We just
21 appreciate the service you have given to the country.
22 We'll look forward to these hearings clearing the air
23 and also look forward to your confirmation and your
24 work as the Director of Central Intelligence.

25 I think you'll find that it will be just as

1 interesting if not more so than Director of the FBI, and
2 I look forward to working with you.

3 Thank you, Mr. Chairman.

4 THE CHAIRMAN: Thank you, Senator Hatch. Senator
5 Specter.

6 SENATOR SPECTER: Thank you, Mr. Chairman.

7 Judge Webster, I join my colleagues in welcoming
8 you here this morning. There is no more important job
9 in the Federal government, perhaps short of the
10 presidency, than the one that you have been nominated
11 for, and I think had there ever been any doubt about
12 that, it would have been dispelled by the events of the
13 past six months with respect to what has happened on the
14 sale of arms to Iran and the diversion of funds to the
15 contras.

16 Certainly the U.S. intelligence gathering operation
17 is one of enormous importance in many respects. First,
18 on foreign policy, if we are to have a successful
19 foreign policy the CIA has to do its job on intelligence
20 gathering. Beyond the function of gathering of
21 intelligence itself, then there is the responsibility to
22 advise the President on those Findings. And I think
23 that requires independence and it requires restraint.
24 And it may require -- perhaps does require -- telling
25 the President what he doesn't want to hear on occasion,

1 and perhaps even repeating it when he doesn't want to
2 hear it. And beyond advising the President, it is the
3 responsibility to tell the Congressional Oversight
4 Committees what the Congressional Oversight Committees
5 have a right to know.

6 There may be some problem perhaps on the
7 longstanding issue of serving two masters -- I don't
8 think so -- because every official has an obligation to
9 follow the law, and if there is a violation of law,
10 especially ranking officials have an obligation to
11 follow the law on an independent basis.

12 If our intelligence operations are to be
13 successful, there is a real need for covert action, and
14 at this time the covert action has fallen under
15 disrepute because of the issues of an appropriate
16 Finding, the issue of timely notice to this Committee.
17 These questions will obviously be paramount in these
18 proceedings, because we do not have to ask you
19 hypothetical questions as to how you would discharge
20 your duties as Director of the CIA because we have a
21 case in point where we are trying to define standards
22 for the appropriate role of timely notification and
23 appropriate disclosure to the Congressional Oversight
24 Committees.

25 As you know from our prior conversations, I have

1 certain questions that I want to ask you about Abscam.
2 And I do join in the welcome here and look forward to
3 your testimony.

4 Thank you, Mr. Chairman.

5 THE CHAIRMAN: Thank you, Senator Specter. Senator
6 Warner.

7 SENATOR WARNER: Thank you, Mr. Chairman.

8 I join others in welcoming this distinguished
9 public servant and, on behalf of the citizens of this
10 country, thank you for taking on this assignment rather
11 than returning to the private sector and enriching
12 yourself.

13 I, too, will join in the questions raised by my
14 colleague from Pennsylvania concerning your relationship
15 with the President. Not particularly this President,
16 but the CIA Director has a very special relationship
17 with any President -- particularly your ability to look
18 him straight in the eye and say Mr. President, this is
19 bad advice you have gotten by someone else, and I
20 caution you and suggest you change the course of action.

21 I am sure you have the strength and the conviction
22 to do that. It is for that reason that you are going to
23 have my whole-hearted support.

24 Thank you.

25 THE CHAIRMAN: Thank you, Senator Warner. We are

1 privileged this morning to be joined by the former Vice
2 Chairman of this Committee, the Senator from New York,
3 Senator Moynihan, who has indicated to me he would like
4 to also make a brief opening statement and some remarks
5 on this occasion.

6 We're very happy to have you with us this morning,
7 Senator Moynihan, and I recognize you at this time.

8 SENATOR MOYNIHAN: You are very generous, Mr.
9 Chairman, and Judge Webster, I am a bit of a voice from
10 the past here, but I have something that I would like
11 to put on the record, because it is something that will
12 be part of the situation you come into. It has to do
13 with the question of the ways in which the Senate
14 Intelligence Committee is informed about anticipated
15 covert activities, significant ones.

16 In 1984, the beginning of 1984, the Agency made the
17 decision to mine harbors in Nicaragua. This Committee
18 was not informed. This caused a great deal of distress
19 with Senator Goldwater and myself and other members.

20 We decided to see if we could not make a better
21 arrangement -- have something come out of our
22 misunderstanding, if that was what it was. And on June
23 6 of 1984, Mr. Casey, Senator goldwater and I signed an
24 agreement that had been approved by the President and
25 the National Security Advisor which came to be known as

1 the Casey Accords.

2 The Accords had a very simple proposition: how
3 would we define the word "significant"? What does that
4 word mean. Judges frequently have to do that with
5 statutes. We said, as a working definition, if the
6 President approves an activity, we will take that to be
7 significant, because there are only so many things he
8 can get to and some things that no one would do without
9 his approval.

10 That simple three page agreement had ten points,
11 and the tenth point said that within a year we will
12 review this agreement and see how it is working. And
13 indeed an addendum was reached and signed. Only it was
14 not done within the year. As things will do, it
15 stretched on. And so the second agreement was not
16 signed until June 17, 1986. We have first an '84
17 agreement, then two years later an '86 agreement.

18 The '86 agreement states that, "The Committee and
19 the DCI agree that the Procedures," capital P, "have
20 worked well and that they have aided the Committee and
21 the DCI in the fulfillment of their respective
22 responsibilities."

23 They added a few specific details to be considered
24 as also automatically requiring notification, one of
25 which said that even though a President doesn't

1 necessarily approve, when "significant military
2 equipment actually is to be supplied for the first time
3 in an ongoing operation."

4 Now, Judge Webster, this agreement, this signed
5 understanding of June 17, took place five months after
6 the Presidential Finding to ship arms to Iran. And I
7 have no more comment than to say that we have to see it
8 as profoundly deceptive, and in the circumstances near
9 to heartbreaking. I mean, the effort to produce an
10 understanding on notification, made in such good faith
11 by this Committee, was greeted in the other direction --
12 I leave it to you to make your own judgments about it,
13 but that the DCI could sign such a statement in June
14 1986, co-signed by the Chairman and Vice Chairman of
15 this Committee, was ruinous of a relationship which has
16 to be reestablished. I am confident, sir, that you can
17 do so. But I would want to bring to your attention what
18 happened and it is really wrenching to know that it
19 happened.

20 Mr. Chairman, I would ask that the full text of the
21 Accords be included with my testimony at this point.

22 Thank you, Mr. Chairman.

23 THE CHAIRMAN: Thank you, very much, Senator
24 Moynihan. I think it is always useful to us to have that
25 perspective and to understand the context in which we

1 are now operating. Too often we are not aware enough of
2 events that have taken place in the past and the
3 procedures that have been put in place. I think it is
4 very helpful to us to have that information before us,
5 and I appreciate your entering it into the record this
6 morning.

7 (The documents referred to follow:)

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

THE CHAIRMAN: We have been joined by another member of the Committee this morning, and I believe he has opening comments to make. Senator Hecht, I am pleased to recognize you at this time.

SENATOR HECHT: Thank you, Mr. Chairman.

Nice to see you this morning, Judge. Nice to welcome a Missourian, since I was a native Missourian before moving to Nevada. I will have some questions for you after listening to your comments, pertaining to the local level in Nevada, your tenure -- your present position on the national level and international level.

Nice to have you here today.

THE CHAIRMAN: Thank you, Senator Hecht.

Judge Webster, this morning I notice that you have two very distinguished members of the Senate here to introduce you. Let me say you could not be accompanied by two finer individuals to officially present you to this Committee this morning. They are widely respected by members on both sides of the aisle. It is a privilege to have them here with you this morning, and to know that those from your home state think highly of you is a very high recommendation.

At this time I am privileged to recognize the senior Senator from Missouri, Senator Danforth. Senator

1 Danforth, we are glad to have you with us this morning.

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 STATEMENT OF THE HONORABLE JOHN C. DANFORTH,
2 UNITED STATES SENATOR FROM THE STATE OF MISSOURI
3 SENATOR DANFORTH: Mr. Chairman, thank you, very
4 much, members of the Committee. Sitting here listening
5 to the opening statements I am reminded of seeing Judge
6 Webster several weeks before the President designated
7 him as the next Director of the Central Intelligence
8 Agency and asking him what he would be doing after his
9 departure from the FBI in a year. I now find out what
10 he will be doing.

11 Mr. Chairman, it is often common for Senators from
12 a nominee's state to appear before a Committee to give
13 pro forma remarks about the reputation of the person who
14 is being considered by the Committee. I want you to
15 understand that in this case my remarks are not pro
16 forma. In fact, Judge Webster's reputation over the last
17 nine years since he has served as Director of the FBI
18 has been well known by every member of Congress. He has
19 brought great luster to his position at the FBI. He has
20 restored that fine organization not only to its past
21 heights, but to, I think, an unprecedented position in
22 the minds of the members of Congress and indeed of the
23 American people.

24 I think what I have to add to this Committee's
25 consideration is the fact that I haven't just known

1 Judge Webster over the last nine years; I have known him
2 over many, many years. When I was a young lawyer just
3 beginning to practice law in my home town of St. Louis,
4 I can remember at that time asking other lawyers the
5 question who were really the fine attorneys of our city;
6 who were the people with the best reputation. And
7 always, Judge Webster's name would be on that list.

8 I knew him as a lawyer. I knew him as a United
9 States District Judge. I knew him as a member of the
10 8th Circuit Court of Appeals. Indeed, I believe I have a
11 unique claim for members of the Senate, in that I think
12 I am the only person in the Senate ever to have tried a
13 case in front of Judge Webster. I can say that I did
14 not agree with his opinion in that case --

15 (General laughter.)

16 SENATOR DANFORTH: I can also say that
17 unfortunately the United States Supreme Court did agree
18 with his opinion.

19 (General laughter.)

20 SENATOR DANFORTH: In addition to my own knowledge
21 of Judge Webster, my family's knowledge of him even
22 predates my own. He is a contemporary of my oldest
23 brother. He serves on the Board of Trustees of
24 Washington University where my brother is the
25 Chancellor. My family has known him I guess all of his

1 life. And I am well aware of his reputation in his home
2 community in the minds of people who have literally
3 known him all his life.

4 Putting it very briefly, Mr. Chairman, Judge
5 Webster is the pride of St. Louis. He is a person about
6 whom it would be said by everyone who has known him, not
7 just for nine years, but for decades and decades, that
8 he is a person of enormous ability, of very great
9 character, of fine judgment. He is admired. He is
10 respected by all of those who have known him over the
11 period of his life. What you have seen for the past
12 nine years during his service as Director of the FBI is
13 exactly what he is and what he has been.

14 And I guess, Mr. Chairman, this sounds more like a
15 rhapsody than testimony, and indeed it is; it is exactly
16 that. But it is also a statement on the part of one
17 Senator and one friend and one constituent, of
18 appreciation that Judge Webster has given so much of
19 himself and his enormous talent and ability to his
20 country, not just for the past nine years, but for
21 several decades now as a public servant.

22 THE CHAIRMAN: Thank you very much, Senator
23 Danforth, for those fine comments, and Judge, the
24 Committee promises we will not hold against you your
25 incorrect ruling in that one case cited by Senator

1 Danforth.

2 (General laughter.)

3 THE CHAIRMAN: We are also privileged to have with
4 us this morning the junior Senator from Missouri. I had
5 the privilege of serving with him at the time that he
6 was Governor of Missouri, and now the pleasure of
7 serving with him in the Senate. Senator Bond, we are
8 very happy to have you this morning, and we would
9 welcome any comments from you at this time.

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 STATEMENT OF THE HONORABLE CHRISTOPHER S. BOND,
2 UNITED STATES SENATOR FROM THE STATE OF MISSOURI

3 SENATOR BOND: Thank you, very much, Mr. Chairman
4 and members of the Committee.

5 It gives me a great deal of pleasure to be able to
6 join with our distinguished senior Senator of Missouri
7 in recommending to you wholeheartedly and without
8 reservation William Webster for the position of Director
9 of Central Intelligence. I, too, would associate myself
10 with the comments that Senator Danforth has made about
11 Judge Webster. I would go a step further to say that
12 the entire state of Missouri takes great pride in the
13 accomplishments, the record and the high standards which
14 Judge Webster has exemplified.

15 I have had the privilege of knowing Judge Webster
16 both personally and in a professional manner for about
17 20 years. It was that close association and very warm
18 feeling for him that led me, in 1977, when I heard that
19 he was being considered as Director of the FBI, to
20 communicate to him a real note of caution. I urged him
21 not to take the position of the Director of the Federal
22 Bureau of Investigation. Two things led to this
23 unsolicited piece of advice. Number one, since as you
24 may recall, Mr. Chairman I was returning involuntarily
25 to the practice of law at that time, I had hoped to see

1 the Bench maintain the highest possible standards. And
2 certainly Judge Webster exemplified those high standards
3 for all who practiced law in the state of Missouri and
4 elsewhere in the 8th Circuit.

5 On a more practical level, I was concerned about
6 the condition of the FBI. Given its recent past history
7 and the then current state of affairs, I felt that it
8 was an impossible task for someone to go in and to
9 restore the Federal Bureau of Investigation to the high
10 standards it had once known. However, I should have
11 known that Judge Webster was one who handles the
12 difficult every day; the impossible takes only slightly
13 longer.

14 His achievements as the Director of the Federal
15 Bureau of Investigation are obviously very well known to
16 all the members of this Committee and to most concerned
17 citizens throughout this country. I am confident that
18 should you confirm him, as I trust and hope that you
19 will, that he will go on to provide the same high levels
20 of service to the people of this country in his new
21 position as he has done at the Federal Bureau of
22 Investigation.

23 It is my great pleasure and an honor once again to
24 join with Senator Danforth recommending wholeheartedly
25 his confirmation.

1 THE CHAIRMAN: Thank you very much, Senator Bond.
2 We appreciate both of you being with us this morning.

3 Judge Webster, at this time I would like to ask
4 that you stand and be sworn to present the testimony
5 before the Committee this morning. If you would raise
6 your right hand.

7 Do you, William H. Webster, solemnly swear that the
8 testimony that you are about to give is the truth, the
9 whole truth, and nothing but the truth, so help you God?

10 JUDGE WEBSTER: I do.

11 THE CHAIRMAN: Thank you very much. You may be
12 seated.

13 Judge Webster, again I want to welcome you, and say
14 I have never heard finer and stronger introductory
15 comments by two Senators from the home state of a
16 nominee. They have been impressive indeed.

17 I want to ask if you have been provided with a copy
18 of the Committee Rules and have had an opportunity to
19 examine those Rules?

20 JUDGE WEBSTER: I believe I have, Mr. Chairman.

21 THE CHAIRMAN: At this time we would welcome any
22 opening remarks that you might have to make to the
23 Committee.

24
25

1 TESTIMONY OF THE HONORABLE WILLIAM H. WEBSTER,
2 NOMINEE FOR DIRECTOR OF CENTRAL INTELLIGENCE

3 JUDGE WEBSTER: Thank you very much, Mr. Chairman,
4 distinguished members of the Committee. I appreciate
5 very much your opening remarks, and I am deeply indebted
6 to my friends and fellow Missourians, Senator Danforth
7 and Senator Bond, for the generous comments that they
8 made this morning.

9 I have been looking forward to this moment and I
10 appreciate very much the opportunity to appear before
11 you today.

12 As Senator Cohen noted, this is now the fifth time
13 that a Committee of the Senate has considered my fitness
14 to serve in an office requiring Presidential
15 appointment. I am deeply honored by President Reagan's
16 nomination of me to be Director of Central Intelligence,
17 and if the Senate chooses to confirm me, I will bring to
18 the office the very best that I have in me.

19 Mr. Chairman, I realize that past confirmations
20 must stand apart from the process that you begin today.
21 I know that this Committee will wish to discuss with me
22 my past stewardship in public office, and my thoughts
23 and views about the office for which I am now being
24 considered. Still, I do not exactly come before this
25 Committee as a blank page. For nine years it has been

1 my privilege to appear before this Committee in its
2 oversight capacity and report to you on the work of the
3 FBI in counterintelligence and counterterrorism matters
4 and to discuss with you my views on the broader picture
5 of national security. I hope you know by now my
6 unreserved support for your oversight function, and my
7 deeply held view that this function can and should
8 provide not only wisdom and guidance, but also reinforce
9 public support and trust for the work of the
10 intelligence community. Indeed, as recipients of
11 sensitive intelligence information which cannot be made
12 publicly available, you serve as surrogates for the
13 American people.

14 The responsibilities of the Director of Central
15 Intelligence are largely defined by statute and by
16 Executive Order. The responsibilities are awesome and
17 no Director of Central Intelligence can succeed without
18 your full understanding and support. It is a shared
19 responsibility, and we must succeed.

20 In my years of association with components of the
21 intelligence community, I have developed some thoughts,
22 some ideas and views, principally in
23 counterintelligence, but also in the broader range and
24 function of intelligence gathering and activities in
25 furtherance of the national security. I would not,

1 however, want my answers to your questions today to
2 suggest either that I think I know all the answers or
3 that there is nothing more for me to learn. Quite the
4 contrary. But I do have confidence in my own judgment,
5 and even greater confidence in the enormous wisdom,
6 talent and selfless dedication of the men and women of
7 the Central Intelligence Agency and of the other equally
8 competent and dedicated components of the intelligence
9 community. I believe I can sustain and enhance the
10 collective momentum of the intelligence community to
11 serve the national interest aggressively, objectively
12 and professionally, and to do so with fidelity to our
13 Constitution, our statutes, and all lawful orders issued
14 pursuant thereto.

15 Mr. Chairman, rather than burden you with a lengthy
16 and potentially presumptuous opening statement, I should
17 like to conclude by reading two short paragraphs from a
18 book written some years ago about a man, now in the
19 twilight of his life, whom I am privileged to know as a
20 friend. His name is Sir William Stephenson, and the book
21 which made him more famous than I suspect he would like
22 to be is titled "A Man Called Intrepid." Bill
23 Stephenson wrote a forward to that book, and in that
24 forward he said: "Perhaps a day will dawn when tyrants
25 can no longer threaten the liberty of any people, when

1 the function of all nations, however varied their
2 ideologies, will be to enhance life, not to control it.
3 If such a condition is possible, it is in a future too
4 far distant to foresee. Until that safer, better day,
5 the democracies will avoid disaster, and possibly total
6 destruction, only by maintaining their defenses.

7 "Among the increasingly intricate arsenals across
8 the world, intelligence is an essential weapon, perhaps
9 the most important. But it is, being secret, the most
10 dangerous. Safeguards to prevent its abuse must be
11 devised, revised, and rigidly applied. But, as in all
12 enterprise, the character and wisdom of those to whom it
13 is entrusted will be decisive. In the integrity of
14 that guardianship lies the hope of free people to endure
15 and prevail."

16 Mr. Chairman, I wish that I had written those
17 words. I believe them, I subscribe to them, and if
18 confirmed will do all that I can to be worthy of your
19 trust.

20 Mr. Chairman, that concludes my formal statement.
21 As you know, I have completed a number of questions to
22 the Senate and also some supplemental interrogatories.
23 I should like to make one addition at this time.

24 I am aware of a recommendation brought to my
25 attention on or about October 30, 1986, to withhold

1 certain information from Lieutenant Colonel Oliver North
2 of the National Security Council. This recommendation
3 was made by a Department of Justice official who, based
4 on newspaper articles, concluded that Lieutenant Colonel
5 North might be involved in a future criminal probe by a
6 special prosecutor concerning United States activities
7 in Central America. The official was also of the
8 opinion that this dissemination was not necessary
9 because it was already available through the media.

10 Mr. Chairman, I do not believe that this
11 information was contemplated in the question previously
12 answered for the record which specifically excludes
13 public media sources. But further, the information
14 proposed to be withheld from Lieutenant Colonel North
15 did not mention Lieutenant Colonel North or any other
16 government official. I did not then nor do I now
17 believe that any of this information was information,
18 quote, "regarding activities of U.S. officials that had
19 the purpose or effect of providing illegal or
20 unauthorized assistance to the Nicaraguan resistance
21 during the period that such assistance was prohibited by
22 law," close quote. That was the question.

23 Nevertheless, on reflection, I have concluded that
24 this information should also be provided to you and I
25 wish to supplement my previous interrogatory with this

1 statement. And I might add that all pertinent details
2 regarding this matter have been furnished to the
3 Independent Counsel.

4 THE CHAIRMAN: Thank you very much, Judge Webster.
5 The record will reflect that your answer has been so
6 supplemented, and I appreciate your providing this
7 additional information to the Committee. I also
8 appreciate the comments which you have made in your
9 opening statement. You have eloquently described the
10 burden which we all have to strike that appropriate
11 balance between the need for an effective intelligence
12 operation, one in which confidentiality of sensitive
13 information must be maintained, and at the same time an
14 operation that must be conducted according to law, and
15 under the appropriate oversight of those that have been
16 elected by the people to perform that function. I think
17 your statement is a well taken and an eloquent one.

18 I also appreciate the fact that you have commented
19 upon the talent and the dedication of countless numbers
20 of staff people, professionals who work at the Central
21 Intelligence Agency and throughout the intelligence
22 community, because I think all too often it is only the
23 problems that get the attention. By the very nature of
24 their work, the successes never become a matter of
25 public record. Day in and day out, we have an

1 exceptional group of people, extraordinarily talented,
2 courageous, committed and unselfish in many, many ways,
3 who are performing an outstanding task. I think it is
4 important that all of us reaffirm our appreciation to
5 them because it is an appreciation that too often goes
6 unstated.

7 As has been said in the opening comments, and I
8 know from your own past experiences, you have exercised
9 these kinds of responsibilities yourself, we all have
10 the responsibility of making sure today that our inquiry
11 into your qualifications is complete and thorough. We
12 hope that it will be fair in every way. I know that you
13 understand that in directing specific questions to you,
14 no hostility is intended, but we are simply meeting our
15 responsibility to do the job which we are given under
16 the constitutional process.

17 We will go through a round of questions. I will
18 begin that questioning, and we will just continue that
19 process with the members of the Committee until all of
20 the members have had an opportunity to ask all the
21 questions that they wish to ask. Some members will be
22 coming and going during the process because of other
23 Committees that are in session this morning.

24 I notice in your response as you discuss the
25 suspension of the FBI's preliminary Neutrality Act

1 investigation of Southern Air Transport on October 30th,
2 1986, you were informed that sensitive hostage
3 negotiations were going on. Did you have any idea at
4 the time that Southern Air Transport might be involved
5 in both U.S. arms shipments to Iran and private arms
6 deliveries to the contras in Nicaragua?

7 JUDGE WEBSTER: Mr. Chairman, I certainly did not
8 associate the two. We had -- we were opening an
9 investigation that had to do with the crash of a
10 transport plane in Nicaragua which had originated from
11 El Salvador, but which had possibly some connections
12 with Southern Air in Florida. That was a preliminary
13 inquiry. I also had some knowledge relayed to me by a
14 senior FBI official, Mr. Revell, who sits on the
15 operations subgroup, the group at the National Security
16 Council, that the same airlines had assisted in the
17 Iranian initiatives. But that is the extent of the
18 connection between the two.

19 THE CHAIRMAN: If you had known that there existed
20 some connection that might potentially involve the
21 diversion of funds or any other kind of connection --

22 JUDGE WEBSTER: Oh, no.

23 THE CHAIRMAN: -- would it have made a difference
24 to you in your decision to suspend, whether or not to
25 suspend the FBI investigation at that point?

1 JUDGE WEBSTER: I am sure that it would, but there
2 was no such indication.

3 THE CHAIRMAN: Let me turn your attention now to
4 your conversations with Attorney General Meese on
5 November 21st, 1986, when he informed you of his
6 prospective inquiry. I want to go to the nature of the
7 conversation which you had with Mr. Meese on November
8 21st. Did Mr. Meese explain to you in any kind of
9 detail why he was conducting this inquiry?

10 JUDGE WEBSTER: Well, it was a very casual
11 conversation; it was not an agenda item. I was just
12 visiting with the Attorney General. And he indicated to
13 me that he had been given the ticket or had been asked
14 by the President to straighten out the various confusing
15 statements that were coming out of various departments
16 of government with respect to what actually had
17 transpired in relation to Iran and that he was going to
18 try to get the facts straight.

19 Did you want me to proceed, Mr. Chairman, or did
20 you have another question?

21 SENATOR COHEN: Could you clarify the date on which
22 that conversation took place?

23 JUDGE WEBSTER: That was Friday, November 21st,
24 Senator.

25 THE CHAIRMAN: How long did that conversation take?

1 JUDGE WEBSTER: Oh, I suppose I was in the Attorney
2 General's office for probably maybe 20 minutes, and
3 probably that conversation itself took about a minute
4 and a half, I guess.

5 THE CHAIRMAN: So it was a very brief conversation
6 about this inquiry. And I understand that at that time
7 you offered assistance. Looking back, do you think --
8 and we always can look back with more in our minds in
9 hindsight than we would have understood at the time --
10 do you think that the Attorney General would have been
11 better advised to have had someone from the FBI or the
12 Justice Department with extensive criminal law
13 experience take part in that inquiry?

14 JUDGE WEBSTER: Well, I first should emphasize, Mr.
15 Chairman, that neither of us saw this as a criminal
16 inquiry. The purpose was to try to get the facts
17 straight so that the government could be speaking with
18 one accurate voice. And when I made that offer of
19 assistance, I was thinking primarily in terms of
20 manpower resources. Is there anything we can do in that
21 way for you? He was also thinking in terms of an
22 inquiry, a fact-finding inquiry to report back to the
23 President. So neither of us were thinking in criminal
24 terms.

25 You can always look back and ask in light of what

1 transpired, could the FBI agents have done a better job
2 of conducting such an inquiry or looking for materials.
3 I don't think we're in a position yet to know really the
4 answers to that question. There is also the downside of
5 sending FBI agents into the White House when there is no
6 known criminal activity to investigate. So you can say,
7 sure, maybe we knew better how to ask the questions or
8 maybe we knew better how to do something else. But it
9 was not a criminal inquiry. The Attorney General took
10 his own group of experienced attorneys from the
11 Department of Justice. And I am just not able to say
12 that in hindsight we could have done a better job than
13 they did. But that --

14 THE CHAIRMAN: Had you known that it was going to
15 indeed turn into a criminal inquiry, which it did four
16 days later, in essence, when you were asked to bring the
17 Bureau into it, thinking specifically about the need to
18 protect records and the need to protect potential
19 evidence, had you known on the 21st that this was to
20 become a criminal inquiry, would you at that time have
21 advised the Attorney General that either the FBI or
22 those within the Justice Department who have dealt with
23 a criminal inquiry should have been brought into it
24 specifically to protect evidence?

25 JUDGE WEBSTER: Absolutely, Mr. Chairman. If I

1 might go one step further, I am confident the Attorney
2 General wouldn't have had to have that; he would have
3 asked for it had he known it would be a criminal.

4 THE CHAIRMAN: Well, I gather then it does not
5 surprise you that the Attorney General in his testimony
6 before the Committee on December 17th, which we have
7 released today, testified that you agreed, and I quote
8 from this, you agreed that it would not be appropriate
9 for the FBI to be brought in at that time.

10 JUDGE WEBSTER: That is correct.

11 THE CHAIRMAN: This morning you have entered into
12 the record some comments in regard to a memorandum, an
13 internal FBI memorandum dated October 30th, which bears
14 your initials, which indicates that an official at the
15 Justice Department had speculated that Colonel North
16 might someday come under a criminal investigation, and
17 that certain information which was contained in this
18 memorandum might best be withheld from him at that time.
19 I wondered if, when you had those discussions with
20 Attorney General Meese on November 21st, it must have
21 been known that Colonel North was one of those involved
22 with the Iranian matter, if you had in mind or gave any
23 thought to this information passing across your desk,
24 that there were at least some people in the Justice
25 Department who had suspicion that Colonel North might

1 become the target of criminal investigation?

2 JUDGE WEBSTER: No, I have to tell you in all
3 candor it was not on my mind. In fact, I don't even
4 recall seeing it until it was called to my attention
5 recently in connection with preparing the answers to
6 these questions. It came up with the kinds of
7 informational notes that come up literally by the
8 dozens, call for no action on my part, had been reviewed
9 by all of my career subordinates in the criminal line.
10 I really did not have that in mind.

11 THE CHAIRMAN: So there was nothing in your mind at
12 that time that caused you to have any feeling that this
13 might turn into a criminal investigation.

14 JUDGE WEBSTER: No, Mr. Chairman. It was entirely
15 focused on Iran and the Iranian situation, the Iranian
16 initiative. I frankly have entertained some ill ease
17 about the role of the National Security Council in those
18 areas, but I had no question about whether anything
19 illegal was taking place.

20 THE CHAIRMAN: Let me go now directly to the point
21 of oversight responsibility, and of course as you know,
22 prior notification is to be given to this Committee, or
23 at least in extraordinary circumstances to the
24 leadership of this Committee in regard to covert
25 actions, significant intelligence gathering activities,

1 or any illegal intelligence gathering activities that
2 are brought to the attention of government officials.
3 These are also to be reported.

4 Can you think of any circumstances in which the
5 President should withhold prior notice all together,
6 even of the Chairman and Vice Chairman of this Committee
7 and the four leaders of the two Houses?

8 JUDGE WEBSTER: Mr. Chairman, it is difficult for
9 me to conjure up situations in which I, based on my own
10 experience with this Committee, would want to see
11 information withheld. This is not to say that the
12 President might take a different view of an
13 extraordinarily sensitive, potentially life-threatening
14 initiative that could be damaged and lives put at risk
15 if there were some kind of premature exposure. I have
16 difficulty thinking of any such situations. But the
17 President has a more overriding responsibility.

18 THE CHAIRMAN: If for some reason some dire
19 emergency developed where notice were withheld from this
20 Committee, the President, of course, then is required to
21 provide notice after the fact in a timely fashion. How
22 would you interpret that phrase, "in a timely fashion"?

23 JUDGE WEBSTER: Well, of course, I went to the
24 dictionary, having a name of that kind -- Webster's
25 Dictionary --

1 (General laughter.)

2 JUDGE WEBSTER: I didn't get very much help there
3 nor really in the legislative history. It speaks about
4 an appropriate time or in reference to something. In
5 law, if there is a specific number of days you have to
6 do something, then you would decide whether you did it
7 in a timely way, that is, within the time prescribed.
8 If there is no time, and it appears that this issue was
9 wrestled out during the legislation, then we have to
10 fall back on words like appropriate.

11 And in trying to articulate to you my view of this,
12 which I knew that you would ask, it seems to me that
13 notice is timely at the moment when the compelling
14 circumstances which the President felt called for
15 deferral ceased to be as compelling as the legitimate
16 interests of the Congress and its Select Committee in
17 knowing it. In other words, a deferral is not something
18 you just put off indefinitely. A deferral goes against
19 the tide and it should be continually revisited. It
20 should be a subject of constant agenda review to
21 determine whether it is appropriate at that point to let
22 the Committee know.

23 THE CHAIRMAN: If you had been Director of Central
24 Intelligence during the period of time in which we have
25 just passed with the Iranian arms situation and

1 notification had been withheld for many months as it
2 was, would you have advised the President that you felt
3 it was inappropriate to withhold notification of this
4 Committee for that period of time?

5 JUDGE WEBSTER: I would.

6 THE CHAIRMAN: If you were the Director of the
7 Central Intelligence Agency and a President took action
8 to withhold notice for prolonged periods of time over
9 your repeated objections and your strong feeling that it
10 was wrong in terms of the spirit of the law and wrong in
11 terms of public policy to continue to withhold
12 notification, what course of action would you take?

13 JUDGE WEBSTER: Mr. Chairman, I believe that the
14 Director of Central Intelligence clearly has an
15 obligation directly with the Senate through this
16 Committee, and that is an obligation of trust which
17 would be breached by my continued acquiescence in
18 something that I believed to be arbitrary, and for all
19 the reasons that you have just stated, inappropriate.
20 And I think that I would have to advise the President of
21 my position on that, and if he would not authorize me to
22 speak to you, I would have to leave. It is that simple.

23 THE CHAIRMAN: Let me ask one last question related
24 to this matter. As you know, the law talks about
25 intelligence gathering activities, and intelligence

1 operations, and it says that this Committee is to be
2 notified of intelligence gathering activities and
3 operations conducted by any agency. We have always
4 assumed in the past that it would be the traditional
5 agencies like the Central Intelligence Agency. We have
6 learned in this instance that other bodies, including
7 the National Security Council, have undertaken
8 operations at some point in time that are intelligence
9 activities.

10 If you learned of what appeared to be legal
11 activities by, let us say, the National Security
12 Council, agencies that are not considered traditionally
13 intelligence operative agencies, or if you learned of
14 illegal activities, either one, about which this
15 Committee had not been notified, would you view it as
16 your responsibility -- even though you are Director of
17 Central Intelligence, you wouldn't be director of the
18 National Security Council or any other agency that might
19 be involved -- would you view it as your responsibility
20 as the overseer of intelligence in general, to report
21 such legal or illegal intelligence activities to this
22 Committee?

23 JUDGE WEBSTER: I would consider it my first
24 obligation to insist that the member of the intelligence
25 Community or the National Security Council make the

1 notification itself, and if it refused to do so, I would
2 consider it my obligation to inform you.

3 THE CHAIRMAN: Thank you very much. Senator Cohen.

4 SENATOR COHEN: Thank you, Mr. Chairman.

5 Mr. Webster, you had some notice of the activities
6 that were taking place with respect to the sale of arms
7 to Iran, as I recall, in August of 1986.

8 JUDGE WEBSTER: That's correct.

9 SENATOR COHEN: The circumstances were such that a
10 deputy of yours had a conversation with Colonel North,
11 is that correct?

12 JUDGE WEBSTER: That is correct, Senator Cohen. It
13 was not a private conversation. It was at the
14 operations subgroup committee meeting at the Executive
15 Office Building.

16 SENATOR COHEN: But you were concerned enough about
17 it to contact Mr. Meese directly?

18 JUDGE WEBSTER: I was concerned enough about it to
19 contact the Attorney General directly.

20 SENATOR COHEN: Were you concerned, for example,
21 that it might be in violation of the Export Control Act?

22 JUDGE WEBSTER: I wasn't focusing so much on
23 specific statutes so much as I wanted to be sure that
24 the initiative was supported by a Presidential Finding
25 as Lieutenant Colonel North had represented to Mr.

1 Revell, and that the Attorney General had himself
2 reviewed it and approved it. We've had experiences in
3 the past when the Department of Justice has somehow
4 gotten outside the loop on decisions in which the
5 Attorney General really should have been involved and
6 really should have passed judgment. And that was what I
7 wanted to ascertain for myself and to put the Attorney
8 General on notice, if in fact he was unaware of it.

9 SENATOR COHEN: And the Attorney General assured
10 you that a Presidential Finding had in fact been signed,
11 or rather that a draft had been considered?

12 JUDGE WEBSTER: The Attorney General -- I asked the
13 Attorney General was he aware of the Finding and had he
14 seen it. He said he was aware of the Finding. He had
15 seen it or a draft of it and that he had approved it.

16 SENATOR COHEN: Was that satisfactory in your
17 judgment, to have a draft simply looked at by the
18 Attorney General?

19 JUDGE WEBSTER: It was satisfactory in my judgment
20 at the time that the Attorney General was aware of
21 everything I was aware of, and that he had approved it
22 as Attorney General.

23 SENATOR COHEN: Did you inquire as to whether or
24 not Congress had been notified, or was required to be
25 notified under that Finding?

1 JUDGE WEBSTER: No, I didn't.

2 SENATOR COHEN: Were you aware at the time of
3 allegations about Iran's participation in the bombing of
4 the Marine barracks in Beirut?

5 JUDGE WEBSTER: I probably was, Senator Cohen. I
6 am not certain of the dates, but I probably was. I was
7 informed of everything that was known at that time with
8 respect to the bombing.

9 SENATOR COHEN: Was that a matter of some concern
10 to you outside the legality of whether or not the
11 Attorney General was notified about a Presidential
12 Finding as to the propriety and wisdom of engaging in a
13 covert operation of arms transfers to a nation that was
14 listed as a terrorist nation, who had in fact
15 participated in the killing, murder of 241 Marines?

16 JUDGE WEBSTER: It certainly was of concern to me
17 that if there was to be a departure from our public
18 policy with respect to state-sponsored terrorism, that
19 it be done pursuant to an appropriate Presidential
20 Finding that the Attorney General thought was lawful and
21 appropriate.

22 SENATOR COHEN: Prior to October 30th, were members
23 of your staff concerned about Colonel North's alleged
24 activities in Nicaragua, the funding of the contras?

25 JUDGE WEBSTER: It seems to me that there was quite

1 a flurry of publicity in the early weeks of October of
2 1986, in which various people including Members of
3 Congress, speculated on the activities of the United
4 States in Central America, and I believe, although I am
5 not absolutely certain, that Colonel North's name
6 appeared in some of those news articles.

7 SENATOR COHEN: Do you know whether or not members
8 of your staff, Mr. Revell in particular, contacted Mr.
9 North to inquire as to whether he was involved in the
10 funding of the contras?

11 JUDGE WEBSTER: I don't know the answer to that.

12 SENATOR COHEN: Let me ask you, as of November --

13 JUDGE WEBSTER: Pardon me.

14 (Pause.)

15 SENATOR COHEN: That's a pose guaranteed to put you
16 on the front pages.

17 JUDGE WEBSTER: I can't remember. I can't remember
18 any such conversation being communicated to me. Perhaps
19 in some other way. I do know that from time to time
20 Lieutenant Colonel North or stated -- made statements in
21 telephone calls to Mr. Revell and at meetings that
22 whatever he was doing he was doing pursuant to
23 authorization. But whether it related to Central
24 America, I cannot now recall.

25 SENATOR COHEN: If the FBI had been asked to

1 conduct the preliminary inquiry as of November 21st as
2 opposed to Attorney General Meese, what would you have
3 done differently. Strike that. What would you have
4 done?

5 JUDGE WEBSTER: First of all, I think I would want
6 to know -- have a clear understanding of what it is we
7 were being asked to do. If we were being asked to
8 assist in a factual inquiry, such as the Attorney
9 General performed, that would be one thing. If we were
10 asked to conduct a criminal inquiry, that would be quite
11 another thing.

12 SENATOR COHEN: What would you have done, assuming
13 it was only a preliminary inquiry, to find out what had
14 been done. A newspaper article had been written
15 revealing the fact that we had been transferring weapons
16 to Iran at that point. There was a lot of confusion.
17 You said you were concerned about the NSC being involved
18 in this operation from the beginning in terms of its
19 operational activities on a covert operation. What would
20 you have done as Director of the FBI in terms of the
21 initial phase of that investigation? I am talking
22 specifically about securing documents and preventing
23 them from being destroyed. What would you have done
24 with respect to putting your agents into the White
25 House, contacting officials. What would be the process?

1 JUDGE WEBSTER: First, I want you to understand
2 that in nine years I have never pretended to be the
3 expert investigator.

4 SENATOR COHEN: What would your staff have done?

5 JUDGE WEBSTER: My staff, I am confident, would
6 have made arrangements for interviews, would have made
7 arrangements to review records, would have correlated
8 the public statements that were out there that we're
9 trying to relate to, either confirm or disprove in terms
10 of factual circumstances. They would have developed a
11 game plan before we went there, what it is we were
12 trying to determine, what it is we would be looking for.
13 And I suspect that probably the Attorney General did
14 pretty much the same thing, but I don't know that.

15 SENATOR COHEN: You indicated on December 4th in an
16 interview that you were satisfied that documents were
17 not being destroyed, and that it would not in any way
18 interfere with the investigation. At that time, what
19 led you to conclude that documents were not being
20 destroyed?

21 JUDGE WEBSTER: Is that interview around the 5th of
22 December with a group of reporters?

23 SENATOR COHEN: The 4th.

24 JUDGE WEBSTER: 4th of December. The FBI was fully
25 involved at that time investigating the alleged illegal

1 activities. My senior staff officials had reported to
2 me that they had thus far found no evidence of records
3 being missing from the files, that there was a
4 substantial computer record of what was there --

5 SENATOR COHEN: There were reports in the paper
6 that documents were being destroyed during the course of
7 that weekend.

8 JUDGE WEBSTER: Well, I realize that there were
9 reports in the paper, but I am telling you what my
10 senior staff officials advised me. And that at least as
11 of that date -- and I was very careful in my interview
12 on that date to say as of that date -- we had not
13 determined any evidence of record destruction. And that
14 is still the case. I know of no new information that
15 should have made me alter my statement.

16 SENATOR COHEN: You have not learned of any
17 information since that time that would cause you to
18 reflect upon whether or not it was a mistake not to go
19 in and at least secure the records?

20 JUDGE WEBSTER: I am having difficulty answering
21 your question because this relates to the Independent
22 Counsel's inquiry and that is protected by Rule 6 (E) as
23 you know.

24 SENATOR COHEN: Fawn Hall has been in every
25 newspaper and publication in the country, and already

1 admitted publicly that she destroyed documents.

2 JUDGE WEBSTER: But I am not in a position to
3 confirm that or deny that, Senator, at this point,
4 because of the constraints of the Independent Counsel's
5 investigation. I think the information that I had, that
6 is, the information that the state of our investigation
7 was accurately stated at that time. Fawn Hall was not
8 cooperating at that time, Senator, and did not cooperate
9 until several weeks later.

10 SENATOR COHEN: Well, I have a number of other
11 questions to pursue. My time is up. Thank you very
12 much.

13 THE CHAIRMAN: Senator Nunn.

14 SENATOR NUNN: Thank you, Mr. Chairman.

15 Director Webster, I want to ask a few questions
16 that are rather general in nature rather than specific.
17 You mentioned a few minutes ago that you were ill at
18 ease about the National Security Council that you -- I
19 don't remember the exact words, but you said that you
20 didn't sense any illegal activity, but you were ill at
21 ease about certain things with the National Security
22 Council. Would you expand on that and tell us what you
23 were ill at ease about, how that came to your attention
24 and so forth?

25 JUDGE WEBSTER: Well, I think that a lot of what I

1 was ill at ease about is very accurately portrayed in
2 the Tower Commission Report. There was a lot of
3 frustration and impatience in the Executive Branch over
4 the delay in getting the hostages out, and committees
5 were formed which met in the National Security Council
6 for the purpose of coming up with new and innovative
7 ideas about how the hostages -- their release could be
8 obtained.

9 I guess it starts with the title of this committee,
10 "Operations Subgroup." I kept asking Mr. Revell to be
11 sure that this committee was not, in fact, operational,
12 but was simply a think tank for purposes of coming up
13 with new ideas. It has never seemed to me that the
14 National Security Council was an appropriate vehicle for
15 conducting operational activity. That is was a place
16 where ideas were marshaled and policy was developed
17 which could go to the President for his approval, and
18 that people in the National Security Council, staffers
19 with various types of expertise, largely lacked the
20 capability and the institutional experience to engage in
21 operational matters. And that that was better handled
22 by those to whom operational matters are properly
23 assigned. So I had ill ease when I felt that the
24 National Security Council had become the focal point for
25 operational initiatives. And I expressed that to Mr.

1 Revell and asked him to be alert for any indications
2 that the National Security Council itself was going
3 operational.

4 SENATOR NUNN: Who did you stress that to?

5 JUDGE WEBSTER: To Mr. Oliver Revell, Buck Revell,
6 my Executive Assistant Director who served as a member
7 of the Operations Subgroup as my representative.

8 SENATOR NUNN: Did he express his own concern to
9 you about that? What was his view on it?

10 JUDGE WEBSTER: Well, I think he shared that
11 concern and was always very alert at those meetings to
12 caution members of the committee about the limitations
13 of their role and responsibility, and was very careful
14 to report to me any information that came through that
15 committee that suggested operational activity.

16 SENATOR NUNN: Judge Webster, you have gotten
17 involved to some extent, I suppose, in Presidential
18 Findings. You are familiar with the Findings required
19 by law and so forth for intelligence operations, are you
20 not?

21 JUDGE WEBSTER: I am a lot more now than I was
22 then. I was aware of the principle of Findings because
23 the Attorneys General in the past have had opportunities
24 to participate, and of course the present Attorney
25 General sits by invitation as a member of the National

1 Security Council. There are some aspects of the
2 Findings that I am frankly not familiar with, and until
3 the Findings in the Iranian arms shipments, I don't
4 believe that I had ever seen one. Nor was I even aware
5 -- although the statute certainly makes it clear -- that
6 there was an obligation to inform the Congress in a
7 particular way about those Findings.

8 SENATOR NUNN: Have you had a chance since all this
9 came up to review the statute requiring Findings?

10 JUDGE WEBSTER: I have indeed.

11 SENATOR NUNN: You are familiar with that now?

12 JUDGE WEBSTER: I hope so.

13 SENATOR NUNN: We had testimony from former General
14 Counsel Sporkin who testified before this Committee that
15 he believed that once the President signed a Finding,
16 that previous activity which had not been part of a
17 Finding and which could be considered, I suppose prior
18 to that, unauthorized if not illegal, that that signing
19 of a Finding made that previous activity legal
20 retroactively. How do you view that?

21 JUDGE WEBSTER: Well, I have not done extensive
22 legal research on it, and I suppose that a legal
23 argument can be made for an ex post facto Finding, but
24 in my opinion an ex post facto Finding is contrary to
25 the clear spirit of the statutory requirement. It is

1 not what was intended, and it simply records the
2 President's opinions. And I doubt very much that it
3 would be satisfactory to this Committee and it would not
4 be satisfactory to me. It was damage control, nothing
5 less.

6 SENATOR NUNN: How do you feel about the statute as
7 far as a Finding being in writing or oral? Do you have
8 an opinion on whether oral Findings are in compliance
9 with the law?

10 JUDGE WEBSTER: Well, there again I think that
11 probably a strong legal case can be made that an oral
12 Finding may meet the requirements of the statute. I
13 don't happen to think that it, again, meets the spirit
14 of the statute. A Finding has a purpose. A Finding is
15 to state in writing the basis for the action so that it
16 can be reviewed and understood, and the specifics of it
17 made available to all those who have responsibility,
18 including the Oversight Committee. A Finding that is
19 oral is always subject to modification at some other
20 time.

21 We have in our work in the FBI a number of
22 situations in which emergency authorizations can take
23 place orally, by oral approval of the Attorney General,
24 when I seek it because of a very tight timeframe. I am
25 sure there could be situations in which there was such a

1 time bind that it was not possible at that moment in
2 time to execute a written Finding. But that would not
3 excuse an immediate effort to reduce that oral Finding
4 to writing so that the full understanding of the
5 President, his full conclusion and desires could be made
6 available for oversight.

7 SENATOR NUNN: I think that is very helpful.

8 Judge Webster, you have headed up the FBI now how
9 many years?

10 JUDGE WEBSTER: Nine years last February.

11 SENATOR NUNN: What do you think of the statute
12 that gives a lengthy term to the head of the FBI? Do
13 you think that has worked fairly well?

14 JUDGE WEBSTER: The statute is a ten year term. I
15 have always construed it as a limitation, not as a
16 guarantee. It has had the effect, and I think with the
17 help of the Congress, in distancing the FBI from
18 political activity by having a Director who serves
19 without reference to a Presidential term. But I do serve
20 at the pleasure of the President. Any President could
21 ask me to leave and I would certainly do so. The ten
22 year term also has an advantage of a certain
23 expectation, that if you do your job well, you will have
24 ten years in which to achieve substantial goals. And it
25 tends to relieve -- it certainly did in my case -- any

1 sense of urgency that I had to achieve something within
2 a year to two years, and permitted me to insist that our
3 progress be along established, acceptable guidelines,
4 and not by any shortcut means.

5 SENATOR NUNN: Would you be willing to stay beyond
6 this Presidential term if requested to do so by the next
7 President? Have you precluded that in your own mind? I
8 am not asking you to give an unequivocal yes now, but do
9 you have in your own mind a definite time limit on how
10 long you're willing to serve in this capacity?

11 JUDGE WEBSTER: No, I don't, Senator Nunn. I have
12 no present thoughts on it, and I must be entirely honest
13 with you; I have no thoughts at all about it. I do --
14 the one thought that I have is that I would like to see,
15 if it is at all possible, the Director of Central
16 Intelligence be seen, be perceived in the position that
17 I now think the Director of the FBI is seen, as not a
18 political figure.

19 SENATOR NUNN: Well, that was my next question. Is
20 there some value to making the CIA Director as removed
21 from the political atmosphere as possible?

22 JUDGE WEBSTER: I think so; absolutely.

23 SENATOR NUNN: You do see an analogy between the
24 FBI head and the CIA head in that respect?

25 JUDGE WEBSTER: I do, and I think the American

1 people want the CIA to perform in that way.

2 SENATOR NUNN: Judge Webster, there has been, of
3 course, speculation floating around this town for many,
4 many years about the relationship between the FBI and
5 the CIA. How would you describe that relationship now,
6 and is there anything you think you can do to improve it
7 in your new position, in which I think you will be
8 confirmed and which I plan to support.

9 JUDGE WEBSTER: Senator Nunn, we have a very -- we
10 being the FBI -- have a very cordial relationship with
11 the Central Intelligence Agency. We share information.
12 We hand off assets to each other. We make some joint
13 assessments. We coordinate our work with each other,
14 having in mind there is a line of responsibility which
15 is clearly the FBI's and a line on the other side of
16 which is clearly the CIA. When I first came into office
17 in 1978, the then Director of Central Intelligence was
18 Admiral Stansfield Turner. We had been classmates in
19 college and friends for over 40 years. And the first
20 thing that we decided to do was to demonstrate by our
21 own relationship to each other, that we wanted the two
22 agencies to work together. It was not something that
23 met massive resistance. It was something that I believe
24 that the executives on both sides of the aisle had
25 wanted to see happen but weren't all that sure would be

1 well received by their respective directors.

2 When Director Casey came on board we continued that
3 same warm relationship. And I can say the same about
4 Acting Director Gates. There may well be areas within
5 the two organizations that could do a better job of
6 liaison, and I think that both sides can work towards
7 that. But it represents no mutual distrust, no sense of
8 rivalry. Simply a matter of making the bureaucracies
9 work better together.

10 SENATOR NUNN: Mr. Chairman, I think my time has
11 expired. I would say I have had a lot of dealings with
12 Judge Webster over the years, particularly in the
13 Permanent Subcommittee on Investigations. I have always
14 found him to be not only skillful and energetic, but
15 also a man of great integrity. I think his nomination
16 at this critical juncture is hopefully going to be well
17 received by the United States Senate and the American
18 people. I think it is a good appointment, and of course,
19 I will listen to the answers of all questions and
20 reserve final judgment, but I do think he is the kind of
21 individual and has the kind of sensitivity that we need
22 in a very, very important and sensitive job.

23 THE CHAIRMAN: Thank you very much, Senator Nunn.
24 Senator Roth.

25 SENATOR ROTH: Thank you very much, Mr. Chairman.

1 Judge Webster, last year the Congress directed the
2 President to make a report on the spy activities of the
3 Soviet Bloc so that Congress could determine whether it
4 is in our interest to apply further travel restrictions
5 to Bloc personnel, basically equivalent to those we
6 already have on the Soviets. We have that report, and I
7 think it bears the mark of heavy FBI input. Based on
8 that report and my continuing concern about Soviet use
9 of East European agents to collect sensitive material or
10 for their own purposes, I am introducing last year's
11 bill to apply such restrictions. Could you give us
12 your views on this legislation?

13 JUDGE WEBSTER: Senator Roth, I have not seen the
14 draft legislation sufficiently to comment on it
15 specifically, but I know its purpose and intent, and
16 certainly support it. The expulsions of numerous Soviet
17 spies as a result of Presidential action a few months
18 ago will undoubtedly increase the tasking
19 responsibilities of Soviet Bloc hostile intelligence
20 officers operating in this country. I see no reason
21 why they should not be included within the same
22 restrictions that apply to the Soviets.

23 SENATOR ROTH: To go along, I reintroduced today,
24 along with Senator Dole, the death penalty legislation.
25 It amends Title 18 of the U.S. Code, which would allow

1 such a penalty for certain offenses in time of war, or
2 if the offense concerned nuclear weaponry, military
3 spacecraft, early warning systems, warplanes or other
4 major intelligence capabilities. As an experienced
5 jurist, as well as the head of FBI, I wonder if you
6 would give us your views on the usefulness of such
7 legislation, recognizing of course that it is very
8 controversial in nature.

9 JUDGE WEBSTER: Senator Roth, I have given
10 testimony from time to time and before other Committees
11 on my views on the death penalty generally, and in that
12 testimony, in various ways, I have always said that I
13 thought there was a place for the death penalty in our
14 system. And when pressed for examples of that, of
15 course I used the example of the prisoner in prison
16 serving a life term for whom there is no additional
17 punishment to be given when he kills a guard. And then
18 I think in most cases I have used another example. To
19 me, the saddest word in the English language is
20 betrayal, and the foulest word is traitor. If we cannot
21 apply the ultimate punishment to one who is engaged in
22 the kinds of activities that you have described, I do
23 not think we have a sufficient national sensitivity to
24 the enormous damage being done to us as citizens and as
25 a country. So I would support it.

1 SENATOR ROTH: Well, I very strongly agree with you
2 and appreciate your frank comment.

3 Very recently, Mr. Chairman, the Secretary General
4 of the UN has authorized the creation of a new office --
5 my understanding is, it is Soviet inspired -- in the UN
6 Secretariat. And this new office, heavily staffed by
7 Soviet intelligence personnel, we fear will effectively
8 create a Soviet controlled UN intelligence collection
9 and propaganda agency at the UN. Theoretically the
10 idea is that it would secure information on the domestic
11 situation in each of the member states. But Senators
12 Boren and Cohen joined me in writing to the Secretary
13 General, noting our concern and saying that it was our
14 intention to remove any funding by the Congress. My
15 proposed legislation would do that. I wonder, would
16 the collection of internal domestic information on
17 domestic politics and other internal situations give you
18 concern from the standpoint of intelligence?

19 JUDGE WEBSTER: Well, if I understand the proposal,
20 and I think that I do, it would give me the concern that
21 it provides a unique opportunity for the KGB to engage
22 in manipulative activity at our expense. I think we
23 should be very careful about it.

24 SENATOR ROTH: My final question in this area,
25 Judge Webster, involves the President's comments

1 yesterday about the unacceptable Soviet penetration of
2 our new embassy complex in Moscow, while they sit atop
3 Mount Alto here in Washington intercepting our
4 government communications. Again, Senator Dole and I
5 introduced a bill requiring the Secretary of State to
6 negotiate a new proposal on these embassies, and we
7 would provide that if they don't negotiate such an
8 agreement that is acceptable within six months, we would
9 take a number of actions. Let me ask you this: Do you
10 believe the new U.S. embassy in Moscow can ever be made
11 secure without bulldozing it and starting afresh, based
12 on your knowledge about such matters?

13 JUDGE WEBSTER: Senator, I want to be as open and
14 candid as I can in an open session, but that is
15 necessarily limiting to me. I think I can answer your
16 question at least to your satisfaction. I think the
17 focus has to include, at least, how and by whom our
18 embassy is to be repaired or replaced. As long as we
19 are dependent upon Soviet workers to do any of that
20 work, it will not succeed.

21 SENATOR ROTH: Let me ask you one final question
22 this round because my time is up. Considering the cost
23 of securing our government communications in the
24 Washington area from intercept by the Soviet Mount Alto
25 site, do you think it would be desirable for us to

1 require the Soviets to move to some other site in the
2 city? At least, say, comparable to our location in
3 Moscow?

4 JUDGE WEBSTER: Well, I suppose that that kind of
5 an initiative would be wrapped up in our negotiations
6 with respect to our embassy in the swamps in Moscow. I
7 am not in a position to say in an open meeting, nor am I
8 confident that I have the exact technical awareness, to
9 say how much damage they are doing. But they are
10 currently in a position in their present location to
11 capture enormous amounts of microwave transmissions.
12 And in this city, we seem to be tremendously careless
13 about what we say on our telephones. And we have had a
14 lot of experience with that.

15 If we moved them, I can't say that would end their
16 collection efforts. It might make it more difficult. I
17 don't know whether that is enough of a reason, but there
18 are a lot of other reasons why we have to settle this
19 problem with the Soviets.

20 SENATOR ROTH: Thank you, Judge Webster.

21 THE CHAIRMAN: Thank you very much, Senator Roth.
22 Senator Hollings.

23 SENATOR HOLLINGS: Thank you, Mr. Chairman.

24 Judge Webster, with respect to the present security
25 breaches at the Moscow Embassy, we know they are

1 investigating the Marines. But this seems in some sense
2 -- the Marines are culpable, obviously, to me -- to be
3 an avoidance of responsibility. We hear you've got to
4 put older people there, or married people. But Jim
5 Bakker was married, too.

6 (General laughter.)

7 SENATOR HOLLINGS: And they avoid fixing
8 responsibility. We can't find anybody responsible for
9 the Challenger disaster, the Marine barracks -- I can go
10 right on down. Even now, with Irangate, the process is
11 flawed.

12 I am going to ask about your responsibility as
13 Director of the Federal Bureau of Investigation and
14 Title 18 USC 194(E)(1), which states that wherever
15 someone entrusted with the possession of classified
16 material -- I am paraphrasing it -- through gross
17 negligence allows it to be lost, stolen, destroyed, they
18 shall be fined not more than \$10,000 or imprisoned more
19 than ten years. To me there is gross negligence
20 involved in the Moscow Embassy fracas. I talk as the
21 Chairman of the Subcommittee on State, Justice,
22 Commerce. We have already had a hearing with Secretary
23 of State Shultz. It was a closed hearing, but I can at
24 least say this. There is gross negligence there. The
25 Regional Security Officer and the Ambassador are the

1 ones in charge and the ones responsible.

2 Now, what are we doing about that? I know we're
3 giving Marines polygraph tests, but we've also been
4 promoting the RSO and congratulating the Ambassador. I
5 think if you really want to get security at the
6 embassies around this world, you nail an ambassador and
7 a Regional Security Officer, and you won't have to worry
8 anymore about the Marines and whether they are married
9 or old or neuter or what.

10 So let's get responsibility and accountability.
11 Through gross negligence, we had a time sharing plan out
12 there with the Soviets in Moscow.

13 (General laughter.)

14 SENATOR HOLLINGS: That is gross negligence. And
15 what are we doing about it? Are you giving a polygraph
16 to the RSO?

17 JUDGE WEBSTER: We have not been asked to do that
18 yet, Senator.

19 SENATOR HOLLINGS: Yeah, but you're the head of the
20 FBI. Who is going to ask you? You don't think the
21 State Department is going to ask you. They're promoting
22 people, the Ambassador and otherwise. I want to nail
23 the responsible individuals. If you nail them, that
24 will be better than buying all new buildings in the
25 Inman Report for \$4 billion. If you fix

1 responsibility, you'll change that attitude that
2 persisted in this particular embassy.

3 JUDGE WEBSTER: I certainly agree with you,
4 Senator, that it appears to be a long standing attitude
5 in the Moscow Embassy, and one that deserves a very
6 thorough review and change. We have in our other
7 responsibilities been calling attention for at least two
8 years to some of the vulnerabilities there. So far as
9 criminal investigations are concerned, I simply have no
10 answer for you. I will undertake to discuss this with
11 the Department of Justice to see whether or not there is
12 FBI jurisdiction for activities taking place abroad in
13 this way.

14 SENATOR HOLLINGS: I would appreciate it, because
15 what we're doing is concentrating on the Marines, and
16 that is fine; we call them in from all around the world
17 and investigate. But we are avoiding the responsible
18 individual. We are promoting him, and act like there is
19 no responsibility. The process is flawed. I am tired
20 of hearing that in this town. And if you nail a
21 Regional Security Officer and an ambassador, who's
22 really in charge, all ambassadors will wake up, and it
23 won't cost us an extra cent. We won't have to build any
24 more of these turrets that they're building, and
25 pillboxes all around.

1 Let me ask another question quickly, because we're
2 voting upstairs on the Budget Committee. Please,
3 Judge, take cognizance of the House report on the
4 counterintelligence and security with respect to the
5 CIA. They made a very thorough study, and I have the
6 report here and we'll file it for you. But I take
7 pride in the Central Intelligence Agency. I
8 investigated it for the Hoover Commission back in 1954
9 and '55, when we had Allen Dulles, General Cabel and the
10 others there. But now it seems to have fallen down on
11 discipline. And the selecting of personnel is a key
12 threat they list down here. The same old troubles that
13 we found years ago with respect to ensuring that one
14 particular agency informs the other of various security
15 breaches. And of course you know the handling of the
16 Yurchenko case. That was a disgrace. Nobody was
17 responsible. I bet you they didn't discipline a top
18 fellow at CIA for letting that fellow wander out of the
19 Washington restaurant down the street back to the Soviet
20 Embassy. I bet you if they had nailed the top fellow in
21 charge of that particular program, that would never
22 happen again. But they didn't. Nobody is responsible.

23 We've got the Howard Case. How did he skip
24 surveillance. You folks, the FBI, had him under
25 surveillance, and he's in Moscow. What about that one?

1 We've got to get that one. Larry Chin and other are just
2 part of a general breakdown. Maybe it is because of our
3 good friend Mr. Casey's health or otherwise, but you've
4 got a lot of work to do, taking over this particular
5 agency, to bolster it. And I am confident you are the
6 right man to do it. I support you. But look at that
7 House report and go over that very thoroughly for me,
8 please.

9 JUDGE WEBSTER: I will, indeed.

10 SENATOR HOLLINGS: Thank you a lot, Mr. Chairman.

11 THE CHAIRMAN: Thank you, Senator Hollings.

12 Senator Hatch.

13 SENATOR HATCH: Judge Webster, you've had some
14 criticism for the time delay with regard to your first
15 meeting with Attorney General Meese with regard to the
16 Iran problem. Would you tell the Committee and the
17 public at large how these investigations are really
18 initiated and what really happened there.

19 JUDGE WEBSTER: Are you referring, Senator Hatch,
20 to my meeting on November 21st?

21 SENATOR HATCH: Yes. I am referring to the 10 day
22 delay that occurred.

23 JUDGE WEBSTER: You're referring to the Southern
24 Air Freight matter?

25 SENATOR HATCH: That, plus the alleged criticism

1 that you failed to follow up when you knew there was a
2 problem here. Let's start with Southern Air Transport.

3 JUDGE WEBSTER: All right. Your question has to do
4 with the Attorney General's request through his
5 Associate Attorney General, Stephen Trott, that we
6 suspend for 10 days any unnecessary investigation of
7 Southern Air Freight.

8 SENATOR HATCH: That was on October 30th.

9 JUDGE WEBSTER: On October 30th.

10 SENATOR HATCH: Right.

11 JUDGE WEBSTER: I received a telephone call from
12 Mr. Trott relaying a message from the Attorney General.
13 He wanted to know if it would be possible for us to
14 suspend any unnecessary investigation -- and those were
15 his words -- for about 10 days pending some sensitive
16 hostage negotiations; that he did not want to interfere
17 with the investigation, but he wanted to create, if
18 possible, a good climate in which those negotiations
19 could take place.

20 It is not unusual for the FBI itself to coordinate
21 investigations that overlap each other where one
22 investigation might get in the way of another
23 investigation or available resources. I do what I
24 normally would do. This was unusual in the sense that I
25 do not normally get that kind of a request from the

1 Attorney General, but I called Assistant Director Floyd
2 Clarke, who is in charge of our criminal investigative
3 division, told him of the request, asked him about the
4 status of our preliminary inquiry about Southern Air,
5 and asked him whether the Attorney General's request
6 would present any problems to us.
7 Mr. Clarke told me it would present no problems at all.
8 We were barely into this investigation; that there was
9 not much to do; that we had one more interview, second
10 interview with an informant that would complete this
11 relatively short inquiry; and he had no problems with
12 accommodating this request.

13 I made that request a matter of record, and in that
14 formal memorandum of my conversation, I instructed Mr.
15 Clarke to inform me immediately if at any time that
16 request became a problem for him in the investigation.

17 On -- without an exact date, I have it -- but about
18 10 days later they informed me, as they always do that
19 the 10 days were up and would it be all right to go
20 ahead with the investigations. And I said yes, indeed,
21 10 days are 10 days, and I called for Mr. Trott. Mr.
22 Trott returned my call the next day. I asked if there
23 were any problems in our going forward. Mr. Trott, on
24 October 12th said he wasn't certain, he would get back
25 and let us know. On October 20th, Mr. Trott advised

1 Mr. Revell, our Executive Assistant Director, that it
2 was okay to proceed, and the bureaucratic process
3 started in the Bureau to draft a Teletype to the field
4 with those instructions. It took us longer than I was
5 aware of, over a weekend and four or five or six days to
6 get the teletype out, but I think that was indicative of
7 the fact that a lot was going on at the time and that
8 this investigation was never considered at that time to
9 be one of major overriding importance.

10 But that is the process by which the Attorney
11 General made the request, the process which I honored.

12 SENATOR HATCH: As I understand it, the Attorney
13 General did not ask you to suspend urgent
14 investigations; only non-urgent investigations.

15 JUDGE WEBSTER: Absolutely not. And that is
16 included in my memorandum.

17 SENATOR HATCH: Right. I also noticed that in a
18 memorandum, Subject: Investigation of Southern Air
19 Transport, dated November 12th, 1986, from John L.
20 Martin, Chief of the Internal Security Section of the
21 Criminal Division, to William F. Weld, Assistant
22 Attorney General, he attaches your memorandum dated
23 October 31st, to Assistant Director Floyd Clarke of the
24 Bureau's Criminal Investigative Division. The memo
25 mentions that this matter involves Eugene Hasenfus.

1 This memorandum is dated November 12th, and said, "The
2 Bureau is anxious to resume its investigation, but even
3 though the 10 day period requested by Stave Trott has
4 expired, it is unwilling to do so without the
5 Department's approval. Unless you advise to the
6 contrary, I intend to advise the Bureau that it is free
7 to resume its investigation without further delay." And
8 so that is another memorandum --

9 JUDGE WEBSTER: This is being handled at the level
10 of the operational level between the Bureau people in
11 charge of that program and Mr. Martin in the Department.
12 So it was a dual contact with the Department on getting
13 it going.

14 SENATOR HATCH: As I understand it, the first time
15 you had any idea that there might have been a diversion
16 of funds to the contras from the Iranian arms sales was
17 when Mr. Meese gave his press conference on November
18 25th, I believe it was.

19 JUDGE WEBSTER: That is correct, Senator Hatch.

20 SENATOR HATCH: So you had no tip-off before that
21 time.

22 JUDGE WEBSTER: None.

23 SENATOR HATCH: Okay. That is all I want to ask at
24 this time, Mr. Chairman.

25 SENATOR COHEN: Senator Bradley.

1 SENATOR BRADLEY: Thank you, very much, Mr.
2 Chairman. I see we have a vote on. I assume we just
3 proceed until the five bells.

4 Mr. Webster, I have been on the Intelligence
5 Committee for about two and a half years now. The last
6 Congress was referred to in some circles as the Congress
7 of the Spy. We have had already today mention made of
8 Howard and Whitworth and Walker and Pollard and Chin,
9 etc. And one of the things that has struck me is how
10 many Americans have actually sold information for money.
11 I imagine American citizen who enjoys the freedom of our
12 country betraying it for money. When things get tight
13 at home or you think you want to get rich quick, just
14 sell some information. Doesn't matter if it endangers
15 the national security of your country.

16 And the thing that occurs to me and I think it
17 occurs to a lot of people is what would cause somebody
18 to commit such an act and what can be done about it.
19 We have heard today from various Senators who have
20 talked about actions Congress can take and when that
21 happens you always hear about extended use of
22 polygraphs, tougher punishment, death penalty, etc., and
23 then you usually hear Congress saying well, we need to
24 revise procedures, and when the procedures are revised
25 then we will have taken care of the problem.

1 But it occurs to me that those are not sufficient
2 answers to what we have witnessed in the last couple of
3 years. To me, the answer is probably more basic, more
4 painful, more demanding, and maybe even more idealistic.
5 And as someone who has had a remarkable record in 10
6 years at an institution such as the FBI, I wonder if you
7 have given any thought to the larger question about what
8 is it that causes people to sell information for money,
9 to betray their country for money.

10 JUDGE WEBSTER: Senator Bradley, I think we have
11 all thought about this, because you are absolutely
12 right. In my entire time in the FBI I cannot think of
13 any American citizen who was found and convicted of
14 selling out to hostile intelligence services who did not
15 accept money, with one exception. And that was an Air
16 Force employee who gave away secrets because he was
17 angry at the Air Force. But he did not have any
18 ideological convictions that caused him to betray his
19 country.

20 There is, in a sense, a rough, very rough analogy
21 to the problems we face in our number one crime problem,
22 drugs. We can do all the things in law enforcement and
23 in legislation to make conduct illegal, but as long as
24 there is demand for drugs, drugs will continue to come.
25 And that is an educational process.

1 The number of people we have found who have
2 betrayed their country -- and I am focusing on those who
3 walked in, not those who were undone by various skilled
4 recruiting devices of the Soviets -- is a relatively
5 small number of people to the total numbers of people in
6 this country who love the country, who honor its
7 freedoms and would do nothing intentionally to betray
8 it. So whatever I might say to you in answer to your
9 question is not an indictment of the American people in
10 whom I have tremendous confidence.

11 But I think where we do find these incidents and we
12 track them back, we might -- and I am only speculating
13 -- we might find in their education the absence of
14 values. The concept of value neutral that I am hearing
15 these days in the teaching profession is of concern to
16 me. It seems to me that we have some traditions and
17 loyalties that need to be fostered. When I was a child
18 in school, history was very important to me. I don't
19 think that we're teaching history in the way that we
20 used to teach it. When I was a child in school, Nathan
21 Hale was a hero and Benedict Arnold was a traitor, and
22 the distinction was very, very clear. I am not sure
23 that in today's world that there is not some numbness
24 about national secrets and the damage that the selling
25 of those national secrets can mean to us as a society,

1 as a country, and to us as individuals.

2 I think that everything I have said probably
3 applies to those individuals who were found and
4 convicted. I wouldn't want it to be any kind of
5 indictment of our people as a whole. But we need some
6 shoring up and we need to be sure that the importance of
7 the work that individuals have who come into possession
8 of our national secrets needs to be made as clear to
9 them, the worthiness of their work, the trust that is
10 represented by our allowing them to have these secrets
11 should weigh in their conscience and in their minds
12 before they knowingly sell out all that is so important
13 to us.

14 I am not a psychologist. I am not a teacher, but I
15 do believe that an awareness of our history and our
16 traditions, a sense of worthiness of work, and the
17 importance of preserving trust can be infused better
18 than we seem to be doing it today with those people to
19 whom much is entrusted. But I am glad that we only
20 have a handful of these to deal with. I think the vast
21 numbers of the people in the Central Intelligence
22 Agency, the FBI, the NSA, the DIA and all the other
23 places fully realize the importance of the
24 responsibilities that have been given to them.

25 But it is something that I am glad to hear you ask,

1 and I hope others along the way will ask and find ways
2 to build and reinforce that sense of responsibility and
3 trust that is so important in our society.

4 SENATOR BRADLEY: Thank you very much, Mr.
5 Director. I guess I have to go vote. Let me just say
6 that I appreciate your statement and I take it to be a
7 kind of resonance to something de Tocqueville once said
8 when he said in America the spirit of liberty and the
9 spirit of religion are in fundamental agreement.

10 SENATOR COHEN: The Committee is going to stand in
11 recess for five minutes. Senator Boren will return.

12 (A brief recess was taken from 12:05 to 12:14 p.m.)

13 THE CHAIRMAN: We will resume the hearing at this
14 point, and I will recognize Senator Specter. I believe
15 that Senator Bradley had a small amount of time
16 remaining to him when he had to leave to go to vote, and
17 if when he comes back he has one last question to ask,
18 we'll recognize him after Senator Specter has completed
19 his round of questioning. Senator Specter, you are
20 recognized.

21 SENATOR SPECTER: Thank you, Mr. Chairman.

22 Judge Webster, when you started your testimony this
23 morning you had commented about a memorandum dated
24 October 30th relating to certain information which had
25 been withheld from the National Security Council. Would

1 you care to amplify the circumstances surrounding your
2 adding that to your testimony before you began your
3 prepared statement this morning.

4 JUDGE WEBSTER: I think that the facts are that the
5 information was reported to the Senate staff, and the
6 Chairman and possibly the Vice Chairman asked for an
7 explanation which was provided to them last night by
8 members of my staff who had coordinated all of the
9 records that might bear on this subject. And I
10 concluded that I should add it even though I did not
11 believe that the question, in letter or spirit, required
12 it, but in order that you might have a full record.

13 SENATOR SPECTER: Well, the Committee's
14 questionnaire had the question as to your knowledge of
15 any possible illegal activities of U.S. officials in aid
16 of the contras. And as you have noted, you had not put
17 that on your response. As I understand the facts, there
18 was a memorandum provided by Independent Counsel to the
19 Intelligence Committee which contained your initials and
20 where the FBI had decided not to make certain
21 information available to the National Security
22 Council --

23 JUDGE WEBSTER: To Lieutenant North.

24 SENATOR SPECTER: Well, it was to the National
25 Security Council, because Lieutenant Colonel North might

1 have access to it in the context that there was a
2 possible criminal prosecution which might be brought or
3 the appointment of Independent Counsel to investigate
4 Lieutenant Colonel North's activities with respect to
5 the contras. Is that essentially the situation?

6 JUDGE WEBSTER: Senator, have you had a chance to
7 read my statement?

8 SENATOR SPECTER: I heard and made notes of the
9 statement that you gave this morning, Judge Webster.

10 JUDGE WEBSTER: I am not sure I understand your
11 question. I would like to answer it carefully.

12 SENATOR SPECTER: Well, my first question is that
13 the addendum which you added this morning was due to the
14 fact that Independent Counsel advised the Intelligence
15 Committee yesterday of a memorandum dated October 30th
16 which was initialed by you where the FBI had decided not
17 to make certain information available because of concern
18 that it might come to the attention of Lieutenant
19 Colonel North who might be the subject of an
20 investigation by an Independent Counsel.

21 JUDGE WEBSTER: Well, that is substantially
22 correct. The document said that the Department official
23 had recommended that Lieutenant North not be informed
24 about the information contained in the memorandum.

25 SENATOR SPECTER: According to the information I

1 have, the Counsel for the Intelligence Policy of the FBI
2 was concerned in somewhat direct language about Colonel
3 North potentially being in trouble, Colonel North
4 potentially being flaky, and concerned that the
5 information which the FBI had acquired not be made
6 available to Lieutenant Colonel North because he might
7 be the subject of an investigation where Independent
8 Counsel might be involved. Is that correct?

9 JUDGE WEBSTER: The memorandum contained a note
10 from an FBI employee saying that with respect to that
11 information, the Departmental official had recommended
12 that it not be given to Lieutenant Colonel North because
13 he might become the subject of an Independent Counsel --
14 I want to correct that -- that he might be involved in
15 an Independent Counsel probe and besides, it was
16 redundant because that information was already available
17 in the media.

18 SENATOR SPECTER: And the recommendation by the FBI
19 official that Lieutenant Colonel North not have access
20 to this information because he might be involved in a
21 probe initiated by Independent Counsel, that
22 recommendation was approved by you and initialed by you
23 on a memorandum.

24 JUDGE WEBSTER: This was not a recommendation --
25 coming to me in a recommendation form. This was an

1 information note, the kind that I get dozens of a day,
2 that simply put on there that it had recommended. I did
3 not participate. I did not sign an approval. My
4 initials are just scribbled on the bottom of the page.
5 It was for my information.

6 SENATOR SPECTER: Well, your initials, though, were
7 scribbled, as you point out, on the bottom of the page,
8 indicating your agreement with the recommendation not to
9 make the information available to Lieutenant Colonel
10 North.

11 JUDGE WEBSTER: It really didn't indicate anything
12 other than I had read the memorandum, because I was not
13 the one making that decision. It was not sent to me for
14 approval; it was sent to me for information.

15 SENATOR SPECTER: Judge Webster, the issue becomes
16 somewhat important in the context of the fact that that
17 memo was simply one day before you wrote this memorandum
18 to Mr. Clarke which you have already testified about,
19 requesting that there be a delay in the investigation of
20 Southern Air Transport. This memorandum asks to suspend
21 the investigation of any non-urgent work that could --
22 and you used the word -- wreck the investigation. Did
23 you see any connection between the information which had
24 come to the FBI concerning the contras and concerning
25 Hasenfus and the request which you made the very next

1 day to delay this investigation.

2 JUDGE WEBSTER: Let me make a couple of
3 observations to answer as candidly and completely as I
4 can. First, I have no independent recollection of that
5 memorandum at all, other than that my initials appear on
6 it. It was typical of the kind that came in large
7 batches of an informational variety in which I was not
8 being asked to act, but simply being informed.

9 SENATOR SPECTER: Well, you say you have no
10 independent recollection of it when you filled out the
11 Intelligence Committee questionnaire. But how about --

12 JUDGE WEBSTER: That's right. And it was certainly
13 not on my mind at the time that the Attorney General
14 called through his Associate Attorney General. I do
15 not even know, Senator, that I read that particular
16 piece -- had read it by the time that I had that
17 conversation with him. Often those informational notes
18 are taken home. Sometimes they may be a day or two if I
19 am in travel. These are not action things; they are
20 informationAL things. So I can't explain it. I had no
21 recollection of it. I certainly know that I did not
22 have it in my mind at the time that Mr. Trott called to
23 inquire whether I would have any problem.

24 Further, I have consulted with Mr. Clarke who is
25 the Assistant Director in charge of the Criminal

1 Investigative Division who is the one I consulted to
2 determine whether there would be any problem in
3 suspending it, and he has no recollection of that
4 memorandum, although he also saw it on an informational
5 basis. I am trying to suggest that that information was
6 acted on at a very low level.

7 And as I emphasized in my statement -- and then I
8 will take your next question -- but as I emphasized in
9 my statement there is nothing in the memoranda, that is,
10 that contains the information that the Justice
11 Department official proposed not be given to Mr. North,
12 Colonel North, there is nothing in that memorandum that
13 refers to Lieutenant Colonel North or to any other
14 United States government official or in any way suggests
15 that any United States government official was involved
16 in illegal activity in Central America. And therefore
17 I did not believe and I do not believe now that it was
18 called for as an answer to your question. But I wanted
19 to put it in because you had raised it.

20 SENATOR SPECTER: Well, I can understand your point
21 that you may not have remembered it when you filled out
22 the Intelligence Committee questionnaire. But here we
23 have two events, one on October 30th and one on October
24 31st, and it seems to me that it is not so
25 inconsequential that confidential information comes to

1 the FBI which the FBI decides not to transmit to a
2 circle where it may come to the attention of Lieutenant
3 Colonel North, and that even as you characterize your
4 scribbling notes, that it is a fairly significant matter
5 on your making a notation of any sort in agreement
6 apparently not to have the disclosure to Lieutenant
7 Colonel North. This is especially so in the context
8 wherein the very next day you send a memorandum
9 requesting a delay of 10 days in the investigation
10 relating to Southern Air Transport.

11 JUDGE WEBSTER: Senator Specter, it was the same
12 day, if you want to be precise. I wrote the memorandum
13 the next day.

14 SENATOR SPECTER: Okay, the same day.

15 JUDGE WEBSTER: But I have already told you, I
16 don't even know whether I read that memorandum on the
17 same day. This is reading material, the kind of stuff
18 that went home with me.

19 SENATOR SPECTER: Well, now, wait a --

20 JUDGE WEBSTER: And I don't remember it at all.

21 SENATOR SPECTER: Well, Judge Webster, are you
22 saying you scribbled your initials on a piece of paper
23 that you don't even know if you read?

24 JUDGE WEBSTER: No, I didn't say that. I said I
25 don't know -- I don't know when I read it. By putting

1 my initials on it, I meant I had read it.

2 SENATOR SPECTER: Are you saying that you may have
3 read it after October 31st?

4 JUDGE WEBSTER: Yes, I may have.

5 SENATOR SPECTER: Well, if you read it after
6 October 31st, didn't you make any connection between
7 some information that the FBI had decided not to make
8 available to Lieutenant Colonel North and --

9 JUDGE WEBSTER: I did not make the --

10 SENATOR SPECTER: -- and a request to have a
11 suspension for 10 days of an investigation relating to
12 Southern Air Transport which involved the same locale
13 and perhaps overlapping areas.

14 JUDGE WEBSTER: I did not, Senator, and if you look
15 at the --well, you don't have -- I assume that you've
16 had access to the memorandum. It has apparently been
17 provided to you. The memorandum doesn't talk about
18 Lieutenant Colonel North.

19 SENATOR SPECTER: The memorandum has not been
20 provided to us, Judge Webster. I have a memorandum of
21 the staffer who read the memorandum, and I think we
22 ought to have the memorandum, and I intend, speaking for
23 myself, to make an effort to get it.

24 JUDGE WEBSTER: You understand, Senator, that
25 memorandum is in the possession of the Independent

1 Counsel and was provided by the FBI.

2 SENATOR SPECTER: Let me ask you one more question.
3 We have a vote on and perhaps I can come back to this in
4 a later round. You have testified that you had no
5 reason to suspect that there was a criminal
6 investigation or a potentially criminal investigation
7 when you had the conversation with Attorney General
8 Meese on November 21st. You have testified that the
9 issue of the Iranian arms sale came to your attention, I
10 believe you said, in the summer of -- when was it, in
11 response to Senator Cohen's question, that you said you
12 had some information about --

13 JUDGE WEBSTER: As nearly as we can determine by
14 tracking it back to a Criminal Investigative Division
15 briefing, it was on October 5, 1986.

16 SENATOR SPECTER: Well, Judge Webster, you have had
17 a number of indications which surround the issue. Some
18 information comes to your attention on October 5th,
19 1986, which you consider to be of sufficient importance
20 to call to the attention of the Attorney General to see
21 if he knows about it and to see if there has been a
22 finding. Shortly before that time there is information
23 which comes to the FBI that you decide ought not to be
24 made available to Lieutenant Colonel North. At about
25 the same time there is a request which comes to you, and

1 it is obviously an important matter because you put it
2 in this memorandum. And then on November 21st you have
3 a conversation with the Attorney General about the
4 Iranian arms sale and there must have been some question
5 about compliance with the Export Administration Act or
6 the Arms Export Control Act. Why in that context, given
7 your experience, was there no red light flashed that
8 perhaps there ought to be some greater concern about an
9 appropriate role for the FBI.

10 JUDGE WEBSTER: It was a judgment call, Senator.
11 I did not see it. You can fault me for not seeing it,
12 but I didn't see it. And I certainly didn't remember
13 that piece of paper that you're talking about or have it
14 in my mind.

15 SENATOR SPECTER: Had Mr. Meese told you that the
16 issue did involve the sale of arms to Iran when you
17 talked to him on November 21st?

18 JUDGE WEBSTER: The conversation was relatively
19 brief. I was the one who told him what I had been
20 informed, and he confirmed that yes, he was aware of
21 that, and that yes, he had seen the Finding or a draft
22 of it and had given his approval to it.

23 SENATOR SPECTER: Well, that is the October 5th,
24 1986 conversation between you and Mr. Meese, where you

25 --

1 JUDGE WEBSTER: No, I think that would be shortly
2 after August. August 5th was the --

3 SENATOR SPECTER: About August the 5th.

4 JUDGE WEBSTER: Well, it would have been within a
5 few days. It might have been that same day or a few
6 days after that.

7 SENATOR SPECTER: Well, all right. You have this
8 conversation with him on August 5th. Leave out the
9 business as to keeping information from Lieutenant
10 Colonel North and the Southern Air Transport matters
11 which occur on October 30th and 31st or thereabouts, and
12 just pick up the August 5th conversation with Mr. Meese
13 about the sale of arms to Iran. Also, pick up on your
14 concern about whether arms are being sold to a state
15 which sponsors terrorism, and on the information of
16 November 21st where you have a conversation with Mr.
17 Meese about his inquiries relating to the Iranian arms
18 sale. Wasn't there some concern on your part about
19 possible violation of the Export Administration Act or
20 the Arms Control Export Act, that there may be some
21 criminal overtone to this matter.

22 JUDGE WEBSTER: Well, I can tell you that there was
23 not. Most of those acts relate to Customs, and the
24 Attorney General was not -- we were not thinking in
25 terms of or speaking in terms of looking for what kinds

1 of laws had been violated, but looking for what had
2 actually happened -- trying to get the facts straight.

3 SENATOR SPECTER: But, there was the sale of arms
4 to Iran and the Export Administration Act bars the
5 export of goods and commodities to any nation which the
6 Secretary of State has determined supports international
7 Communism. And Secretary Shultz had made that
8 determination. And the Arms Export Control Act
9 regulates transfers of arms generally and specifically
10 bars items on the munitions list to any nation which the
11 President determines supports international terrorism.

12 JUDGE WEBSTER: Well, I could raise the question of
13 whether a Presidential Finding would have superseded any
14 Finding by the Secretary of State, but there's really no
15 point in that because we were not thinking about the
16 Export/Import Arms Control Act which is not normally an
17 area in which the FBI is active.

18 SENATOR SPECTER: Thank you, Judge Webster. My
19 time has expired. I'll come back to it the next round.

20 THE CHAIRMAN: Thank you very much, Senator
21 Specter. Senator Bradley has returned, and he has three
22 minutes remaining on his time for questioning, and then
23 we will continue with questions by Senator DeConcini.
24 So, the Chair will go over to the floor to vote. And,
25 so, Senator DeConcini if you would take up the

1 questioning just as soon as Senator Bradley completes
2 his line of questioning, by then I should be back.

3 SENATOR BRADLEY: Mr. Chairman, do I understand
4 that we will have Mr. Webster for a closed hearing?

5 THE CHAIRMAN: If there are any classified
6 questions that need to be asked, we will. We had
7 planned to come back in open session this afternoon at
8 two o'clock. There are many more questions that Members
9 have indicated to me they wish to address in the open
10 session. If Members do have matters dealing with
11 classified information or questions about which you'd
12 like a ruling as to whether or not they deal with
13 classified information, if you would inform the Chair.
14 Then we will decide either later this afternoon or
15 tomorrow about a closed session. But, we'll resume an
16 open session at two o'clock. We'll complete your
17 questions and then Senator DeConcini's and see if there
18 are others that wish to ask questions before we break.
19 We'll break no later than about ten minutes to one.

20 SENATOR BRADLEY: Thank you very much, Mr.
21 Chairman. Mr. Webster, I'd like to move to another
22 area. I appreciate your response to the last one, and I
23 really hope that people read your response because I
24 think it was an important response given our current
25 environment.

1 One of the challenges that you will face is how to
2 take the CIA to a new level of public acceptability and
3 responsibility. In this connection, how you conduct
4 yourself in the position as the head of the whole
5 Central Intelligence apparatus is very important. To
6 the extent that you are almost above politics, as you
7 have been, that is also very important. That leads me
8 to a question relating to the criteria that you would
9 apply to your public speeches and your writings. The
10 question has arisen in the immediate past as to whether
11 the Director didn't actually become a part of the policy
12 advocacy process; didn't actually take a very direct
13 and even quasi-partisan position on issues before the
14 Congress. And I wonder if you could share with us the
15 criteria you would have for determining what you would
16 speak out on and what you would write about.

17 JUDGE WEBSTER: I think, Senator Bradley, that
18 first of all I would probably proceed pretty much as I
19 have done during the past nine years in the FBI, and
20 that is wherever possible and appropriate to take
21 advantage of opportunities to explain to the American
22 people the role of Central Intelligence, the need for
23 it, how intelligence is gathered in general terms, and,
24 at least in those areas that can be publicly discussed,
25 made as clear as possible. I have great confidence in

1 the American people to support something that makes
2 sense and something that they know is necessary. From
3 time to time over the last nine years it has been
4 necessary for me to publicly explain, and often defend,
5 techniques, operations, events that are understandably
6 confusing to the public. And, I presume I would be
7 prepared to do that. I do not believe that I would be
8 asked to, nor would I want to engage, in any advocacy of
9 political policy. I've tried to stay as far away from
10 that as I can in order not to create the perception that
11 I am -- that either I am politically motivated or that
12 the quality of intelligence upon which our policymakers
13 are expected to act is influenced by political or
14 personal bias. I am concerned that on some campuses we
15 are beginning to see signs that the CIA may not be as
16 welcome as we would like it to be. And that concerns me
17 because of the enormous pool of tremendously talented
18 scholars and thinkers and analysts that we have to draw
19 on in order to produce the quality analysis that makes
20 the CIA the premier intelligence agency in the world.
21 And, unless we continue to have support and
22 understanding on our campuses and in other places of
23 education and advanced knowledge, we are not going to
24 have that kind of person to continue to work in the CIA.
25 So I need to be out talking to those people. If your

1 question was directed, would I be a partisan advocate
2 for particular causes, the answer is no. If someone
3 were to ask me while I was making a speech what is
4 behind a particular policy and I understand it, I think
5 I would try to answer the question in the same way that
6 I answer similar questions in the FBI. What was the
7 reason for the President's decision to punish Libya for
8 the LaBelle discotheque.

9 I think that needs to be explained. But I think I
10 must be always careful to do it in ways that would not
11 suggest that the intelligence is --

12 SENATOR BRADLEY: Let's say that --

13 SENATOR COHEN: The Senator's time has expired.
14 There are two others waiting. Do you want to yield?

15 SENATOR DeCONCINI: Not necessarily. But I think
16 it's a unanimous consent to let him finish that
17 question. I thought he was in the middle of something.

18 SENATOR BRADLEY: If I could just -- very quickly.
19 Let's assume you got a call from a White House, and
20 there was a big vote coming up in Congress, and then
21 sometime in the next three weeks it would be very
22 helpful for the head of Central Intelligence to make a
23 statement that could be used in the overall effort to
24 achieve the policy objective.

25 JUDGE WEBSTER: I'd view that with a lot of

1 suspicion. I've had requests from time to time to state
2 views on such things as the Foreign Intelligence
3 Surveillance Act, and I think that in the sense that it
4 effects anything -- any legislation that effects the CIA
5 -- I would be entitled to make a statement. But just
6 simply to roll drum beats to make room for high level
7 speeches is not the role of the Director of Central
8 Intelligence.

9 SENATOR BRADLEY: Thank you. And thank you, Mr.
10 Chairman.

11 SENATOR COHEN: Senator DeConcini.

12 SENATOR DeCONCINI: Mr. Chairman, thank you very
13 much.

14 Judge Webster, I want to go back in time because
15 I've never quite understood the problem in the Donovan
16 confirmation and the FBI's involvement in that hearing.
17 At the time of that confirmation hearing for the
18 Secretary of Labor, before the Senate Committee on Labor
19 and Human Resources, the FBI told the Committee that its
20 investigation of Mr. Donovan had been "thorough and
21 complete." Those are quotes. And, "had surfaced no
22 information which would reflect unfavorable upon Mr.
23 Donovan." Yet, according to a Teletype sent from the
24 New York field office to the FBI Headquarters, dated
25 January 10, 1981, with which I presume you're familiar.

1 The Tumcon cases Masselli tapes revealed
2 conversations in which schemes to defraud the New York
3 Transit Authority, through the use of a phony minority
4 business enterprise, JOPEL Construction Company, and
5 other misdeeds of overcharging and what have you,
6 were discussed by William Masselli and the executives at
7 Shiavone Construction Company. Mr. Donovan and his
8 fellow Schiavone executives are now standing trial, as
9 you know, in New York on evidence taken from these tapes
10 and other evidence. I want to know, Judge Webster, can
11 you tell the Committee why these serious allegations
12 about Ray Donovan's social and business ties to
13 organized crime and his possible involvement in
14 fraudulent contracts were not revealed to the Senate
15 Labor Committee during the confirmation proceedings.

16 JUDGE WEBSTER: Senator DeConcini, there was a lot
17 that was wrong with that investigation. And in
18 extensive hearings chaired by Senator Hatch those facts
19 came out fully.

20 SENATOR DeCONCINI: In the confirmation hearings?
21 Excuse me?

22 JUDGE WEBSTER: In confirmation hearings and even
23 in separate hearings before that. The FBI executive who
24 made that statement I really believe thought it was true
25 at the time, but the investigation was not as thorough

1 and complete as we would expect in any present day
2 confirmation. It was done in a manner consistent with
3 past Presidential nominations, but in reviewing it I
4 have to say very candidly that the summaries that we
5 provided the White House, which was consistent with past
6 practice, were inadequate -- inadequate to alert the
7 President's counsel that there were serious and specific
8 problems that he might want to address and, in fact,
9 inform the Congress about. When we gathered up what
10 information that we had -- and we really did try in that
11 one to reach further than we had in the other Cabinet
12 offices. We didn't capture it all. Very substantial
13 changes have taken place since that time and the systems
14 -- the automation systems, the rules, the practices.
15 Even the form in which we supply information to the
16 White House with respect to Presidential nominations
17 has been substantially changed so that nothing we say
18 will mislead.

19 SENATOR DeCONCINI: Judge Webster, when the
20 confirmation hearings and report was sent up did you
21 have already in your possession the January 10, 1981,
22 Teletype from the New York FBI office? Or do you know?

23 JUDGE WEBSTER: I just don't know the answer to
24 that, Senator.

25 SENATOR DeCONCINI: Could you find out for me? I'm

1 concerned that this type of information --

2 JUDGE WEBSTER: We'll certainly answer it promptly
3 for the record.

4 SENATOR DeCONCINI: I'm concerned that this type of
5 information, a copy of which was provided to be by the
6 District Attorney's office, may not have been given to
7 the Labor Committee. Do you know what happened to it?
8 Maybe it wasn't sent to the Headquarters as they say it
9 was. But if it was sent to Headquarters, how would it
10 not wind up in the file for either your review or your
11 chief deputy's review?

12 JUDGE WEBSTER: I'm confident today that would not
13 happen.

14 SENATOR DeCONCINI: It would not because of
15 procedural changes?

16 JUDGE WEBSTER: Yes.

17 SENATOR DeCONCINI: Did anyone from the White
18 House, or particularly Fred Fielding, request that these
19 allegations, or this type of information, not be sent
20 to the Committee?

21 JUDGE WEBSTER: There was one time when there was
22 some question about further interviews and whether
23 further interviews were necessary, and I think Mr.
24 Fielding said that he didn't believe that they were.
25 And I believe that our agent working the case didn't

1 think so either. But I know of no situation in which
2 White House counsel intentionally withheld any
3 information the White House counsel had. I think the
4 problem was that we gave some of that information in
5 such summarized form and then those working with it
6 really believed that that information was all
7 incorporated in some very general summaries. Now we
8 provide all derogatory information in the form in which
9 it is received, so there can be no doubt about what the
10 counsel was actually told.

11 SENATOR DeCONCINI: Judge Webster, my question is
12 did the White House, particularly Fielding or anybody
13 else, request that these particular allegations or any
14 other allegations not be forwarded to the Committee?

15 JUDGE WEBSTER: Senator DeConcini, I can recall no
16 such request by the White House.

17 SENATOR DeCONCINI: Can you also provide us --
18 perhaps you don't have this at your fingertips -- when
19 you did learn of these allegations and the information
20 which was not available to the Committee during Mr.
21 Donovan's confirmation process, and then how much time
22 elapsed before you transmitted it. If that period of
23 time was longer than a reasonable time of 30 or 60 days,
24 why was it not transmitted?

25 JUDGE WEBSTER: I am trying to relate your question

1 to what I knew. I did not know the substance of Mr.
2 Mullin's testimony until later that summer when I -- as
3 I recall, I received a letter from Senator Hatch
4 referring to the testimony, and suggesting that perhaps
5 it was incomplete. It had to do with information that
6 was on lengthy wiretaps, some 1500 hours of wiretaps in
7 New Jersey. One -- as I recall one, possibly two
8 references to Mr. Donovan's company had been made on
9 those tapes that had been reported to me before the
10 confirmation began, with the information that those
11 references did not refer to anything criminal, any
12 criminal activity.

13 SENATOR DeCONCINI: You mean as to the information
14 that was referred to you.

15 JUDGE WEBSTER: That was referred to me.

16 SENATOR DeCONCINI: Not as to the whole tapes.

17 JUDGE WEBSTER: No. No. The full tape was not
18 actually transcribed until the Independent Counsel was
19 appointed, and it took some six or eight of his people
20 several weeks to listen to those tapes, and I think that
21 they found five or six additional references to the
22 company and possibly even to Mr. Donovan in doing that.

23 That information was really not available to us in
24 the form in which it was held. We did know that there
25 were references in the tape to Mr. Donovan -- rather, to

1 his company, at least -- and that information was not
2 given to the Senate during his confirmation. I did not
3 know that --

4 SENATOR DeCONCINI: That it was not given.

5 JUDGE WEBSTER: -- that it was not given, and I did
6 not know that it had been asked for.

7 SENATOR DeCONCINI: Judge Webster, can you tell us
8 what is the procedure that you have implemented to
9 prevent this from happening today? If we had a nominee
10 for another Cabinet position, what guarantees do we
11 have that, in fact, the Director or your chief
12 subordinate would have all the information that you know
13 of within the Federal Bureau, and that all available
14 information would be sent up to the appropriate
15 Committee and its Chairman and Ranking Member.

16 JUDGE WEBSTER: I missed the first part. You say

17 --

18 SENATOR DeCONCINI: What procedures have been
19 implemented now so that this won't happen again and
20 doesn't happen now. What is the change in procedures?

21 JUDGE WEBSTER: We now have procedures for calling
22 in field information and for automating the information
23 that is available to us, both from the field and at
24 headquarters. We have procedures for identifying
25 derogatory information and giving it in the form in

1 which it is received to the White House so that it is
2 not incorporated in some sort of gross summary of the
3 facts. I think the reviewing procedures have been
4 tightened up, and I could supply for the record, if you
5 wish, a list of those changes.

6 SENATOR DeCONCINI: I would like to see them,
7 Judge, if you could provide the. My time is up.

8 But let me say that I think this is very candid of
9 you and very typical of the way you operate. Indeed, it
10 appears from the little bit that I know, and I am not on
11 the Labor Committee, that indeed something was left out
12 in that confirmation hearing -- a very important
13 something as to Mr. Donovan. I ended up voting against
14 him, and I can't even remember exactly why now, but in
15 retrospect I am very glad I did. But it might have been
16 my concern that all the information wasn't there.
17 Still, I can appreciate that errors happen or procedure
18 change. I think it would be helpful to this Senator and
19 perhaps the record if you would supply what those
20 changes are and what the process is now, by providing a
21 summary position paper which could be put in the record.

22 JUDGE WEBSTER: I would be happy to do that.

23 SENATOR DeCONCINI: Thank you, Judge Webster.
24 Thank you, Mr. Chairman.

25 THE CHAIRMAN: Thank you very much, Senator

1 DeConcini.

2 Let me explain to the members of the Committee the
3 situation in which we find ourselves. We have some
4 members of the Committee who have been waiting to ask
5 their questions who cannot return this afternoon. As I
6 understand it, they have other conflicts. What I would
7 like to do is give them an opportunity, Judge Webster,
8 if we could go on maybe another 20 minutes or so this
9 morning.

10 JUDGE WEBSTER: Mr. Chairman, I am at your service,
11 as long as you would like.

12 THE CHAIRMAN: We will return about 2:10 after
13 that. If I could ask my colleagues, since we've had the
14 Judge here now for almost three hours, if there is any
15 way you can constrain the length of the questions. We
16 want to give you every opportunity and we'll have more
17 rounds of questioning this afternoon. But we want to
18 give you a chance, because I know some have scheduling
19 problems.

20 Senator Hecht.

21 SENATOR HECHT: Good afternoon Judge, how are you?

22 JUDGE WEBSTER: Good afternoon Senator.

23 SENATOR HECHT: Judge, in my particular state of
24 Nevada, there's been a lot of question about how you
25 have handled some FBI agents and I'm bringing this up

1 because this is very relative to your confirmation, how
2 you hope to handle CIA agents.

3 Maybe the question I'd like to submit have been
4 raised by newspapers, the Las Vegas Sun, with your
5 permission I'm going to have a lot of these articles
6 included in the record.

7 (The newspaper articles referred to follow:)

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 SENATOR HECHT: As you are aware, last year the
2 Senate voted to impeach Judge Claiborne and remove him
3 from office. At the same time, the Senate approved an
4 investigation into the way Judge Claiborne was targeted
5 by the FBI and the conduct of those who conducted the
6 investigation. Are you satisfied with that
7 investigation, headed by then FBI Las Vegas Chief Joseph
8 Yablonsky, was conducted properly by the book?

9 JUDGE WEBSTER: Senator Hecht, I am satisfied that
10 with respect to the investigation of Judge Claiborne,
11 the head of our office in Las Vegas carried out his
12 responsibilities in the manner appropriate and in a
13 lawful manner. I guess that's your question, did he
14 break any laws or break any rules. There were other
15 things that occurred out there that I'm not so proud of,
16 but in terms of the investigation, I am satisfied that
17 there was a proper predicate to initiate the
18 investigation. That evidence came forward that formed
19 the basis for a Grand Jury investigation and an
20 indictment. There was a hung jury, and the case was
21 retried. Senator Claiborne was convicted. He had
22 exhausted his appeals before he came before this Senate
23 on impeachment charges. In no where in any of that did
24 I find anything that would require a disciplinary action
25 or administrative action of my officials out there.

1 That investigation was under the supervision of the
2 public integrity division section of the Department of
3 Justice. I was a participant in passing on and
4 carefully reviewing various proposals to deal with
5 Senator Claiborne during that investigation.

6 SENATOR WARNER: Judge Claiborne.

7 JUDGE WEBSTER: I beg your pardon. What did I say?

8 SENATOR WARNER: He was here for only a short time.

9 THE CHAIRMAN: I think you referred to him as
10 Senator Claiborne.

11 JUDGE WEBSTER: I would withdraw and apologize for
12 that. But I say won't that I agreed with everything
13 that was proposed to be done, because I didn't, and I
14 exercised my responsibility to modify various proposals.
15 But I am not aware that the special agent in charge went
16 beyond his authority when I gave it to him.

17 SENATOR HECHT: Why was Judge Claiborne targeted by
18 Mr. Yablonsky?

19 JUDGE WEBSTER: I would, Senator, very respectfully
20 disagree with the term targeting. He was not targeted.
21 Information came to the FBI through a fugitive in, at
22 that time, another country, that he wanted in exchange
23 for favorable consideration of his situation to give
24 evidence to the government of a bribe paid by him to
25 then Mr. Claiborne, and I think -- I'm not sure of the

1 exact time -- of a bribe to Judge Claiborne. We
2 interviewed the prospective witness, got further
3 information. Other collaborative information came from
4 other individuals including a former Assistant United
5 State Attorney. We went forward with that
6 investigation. And in the course of that investigation,
7 evidence of income tax evasion came forward and that
8 formed the basis for an additional charge, in fact, for
9 the charge for which he was finally convicted. That was
10 handled with the Internal Revenue Service and of course
11 the United States Attorneys out there were in charge of
12 the investigation locally.

13 SENATOR HECHT: For the record I want to point out
14 that the individual which was from another country was
15 an American citizen, and a man of questionable
16 integrity, the owner of a licensed brothel, and on this
17 particular type of an individual you relied on his
18 testimony.

19 JUDGE WEBSTER: Senator, we didn't rely on his
20 testimony, we took his testimony and reached out for
21 other collaborating facts to determine whether or not he
22 was telling the truth. We get information from the
23 worst kind of people.

24 (General laughter.)

25 JUDGE WEBSTER: And it doesn't mean their evidence

1 is untrue. It means we have to be careful about it.

2 SENATOR HECHT: Why did you send Mr. Yablonsky to
3 Las Vegas?

4 JUDGE WEBSTER: I sent, I chose Mr. Yablonsky for
5 Las Vegas, and I take responsibility for having done so.
6 He was doing a very good job in the Cincinnati Office.
7 He was, he had developed a significant reputation in
8 undercover activity. I was concerned that while we had
9 substantial indications of organized crime involvement
10 in Las Vegas and the casinos with tentacles reaching
11 from Chicago and Kansas City, we had not been successful
12 in dealing with organized crime out there, and I thought
13 he was the one to go out and do something about it.

14 SENATOR HECHT: How do you feel about the situation
15 now?

16 JUDGE WEBSTER: I think he did a very good job.
17 Las Vegas is a difficult climate in which to live, and I
18 think he made some mistakes, some personal mistakes, for
19 which he was accountable and was held to account. But
20 in terms of his investigative efforts, when I look at
21 the indictments that came down during his tenure there,
22 I am very pleased that I sent him.

23 SENATOR HECHT: How often were you briefed by Mr.
24 Yablonsky during the course of the Claiborne
25 investigation?

1 JUDGE WEBSTER: The normal course of events is that
2 the special agents in charge do their reporting to the
3 Criminal Investigative Division, and then I receive
4 informational notes from that division which manages the
5 programs. And that is the way this generally occurred.
6 From time to time, Mr. Yablonsky would request authority
7 to do certain things of a sensitive nature, and those
8 would be elevated to senior officials and often to me
9 for determination. If I thought it were necessary to
10 talk to him personally, I would do so, and on at least
11 one trip, to Las Vegas, I had an extensive conference
12 with him and with the people out there with respect to
13 their work.

14 SENATOR HECHT: Did you ever caution him to stay
15 within the bounds of the law during the investigation?

16 JUDGE WEBSTER: I don't know that I ever used those
17 terms, because he never proposed to do anything outside
18 the law. But from time to time, I exercised my
19 responsibility in limiting certain activities in order
20 to protect -- what I considered to be -- to protect the
21 investigation from possible compromise by a very wily
22 subject.

23 SENATOR HECHT: Mr. Chairman, my time is up, but I
24 wish to have time to continue this pursuit of questions
25 at a later time.

1 THE CHAIRMAN: Certainly Senator Hecht. We'll have
2 more rounds of questions this afternoon and every Member
3 of the Committee will have a chance to ask every
4 question they wish to ask.

5 SENATOR HECHT: Thank you very much.

6 THE CHAIRMAN: Senator Cranston.

7 SENATOR CRANSTON: Thank you Mr. Chairman. I
8 welcome you to this Committee.

9 JUDGE WEBSTER: Thank you Senator.

10 SENATOR CRANSTON: You come before us at a time of
11 strain and stress for the Intelligence Community in the
12 wake of the Iran/Contra matters. It is very important
13 to have someone of experience and integrity and very
14 good judgment assuming the role of leading the
15 Intelligence Community. From all that I've gathered
16 this far, you're highly qualified for this nomination,
17 and subject to whatever may come up in the scope of
18 these hearings, I expect you're going to be confirmed,
19 and I will be one of those very happy to join in that
20 confirmation.

21 I do want to ask you some questions that relate to
22 something that happened in California a while ago. This
23 hearing gives me the opportunity to do that. According
24 to press reports the FBI started an investigation of the
25 Popular Front for the Liberation of Palestine some three

1 years ago. Some of my questions you may not want to
2 answer in open session, some you may want to go back to
3 look at the files, but let me ask you what prompted your
4 investigation at that time of the PFLP?

5 JUDGE WEBSTER: Senator, I appreciate your
6 understanding the constraints that I am under in
7 responding to that question. The PLFP is a world-wide
8 organization which has been extremely violent in its
9 activities. It has claimed credit and been involved in
10 such incidents as the shootings in Munich and the
11 hi-jacking of the famous plane that went to Entebbe. A
12 number of Americans have been victims of the PFLP
13 terrorist activity. There was a substantial basis under
14 the Attorney General Guidelines to conduct
15 investigations of this organization and the individuals
16 in that organization who might -- who we had reason to
17 believe might be engaged in terrorist activity. That
18 was the basis for opening the investigation.

19 SENATOR CRANSTON: Did you have any reason to
20 believe that the group was actually engaged in or
21 planning to engage in terrorist activities in this
22 country?

23 JUDGE WEBSTER: Taken as a whole, I think we had
24 reason to believe that there were plans in operation of
25 a terrorist nature. With all that is going on in the

1 Middle East we have an awareness of infrastructures in
2 the United States which could form the basis for support
3 mechanisms if individual groups chose to retaliate or to
4 engage in terrorist activities here in this country, and
5 that goes across a number of such organizations. The
6 individuals who were arrested in California had not been
7 found to have engaged themselves in terrorist activity.

8
9 SENATOR CRANSTON: I understand that the
10 Immigration Service actually carried out the arrest of
11 the PFLP members for deportation purposes. But the
12 arrests were based on information provided by the FBI
13 concerning the organization and activities of the
14 individuals, is that correct?

15 JUDGE WEBSTER: I believe that is correct, Senator.

16 SENATOR CRANSTON: Press reports allege there was
17 mistreatment of the arrested people by the Immigration
18 Service agents, not by FBI agents. Were FBI agents
19 present during the arrest?

20 JUDGE WEBSTER: FBI agents were present at the
21 arrest for the purpose of being in a position to
22 interview any of those arrested who wished to cooperate.
23 We did not make the arrest.

24 SENATOR CRANSTON: Are you looking into the charges
25 of mistreatment of the people during the arrest by the

1 Immigration officials, or do you have any information on
2 that?

3 JUDGE WEBSTER: Of course I have spoken to Mr. Allen
4 Nelson, the head of the Immigration Service, and he has
5 ordered an Office of Professional Responsibility
6 investigation into the allegations. WQe had originally
7 had started a civil rights investigation but were
8 advised by the Department that we did not have a basis
9 for that and that we should close our investigation and
10 rely upon what should be developed by the Immigration
11 and Naturalization Service, which was looking into it.
12 We've also conducted some internal inquiries as a result
13 of some of the news reports, particularly an article by
14 Mr. Anthony Lewis, that referred to mistreatment of a
15 woman. I think her name is Vitar; it's close to that,
16 Vitar. We do not believe -- we know that no agent of
17 the FBI participated in it. We do not have any evidence
18 of any others. Mr. Nelson is looking for any that he
19 can find, and the attorney for the woman has not made
20 her available for us to interview, so that we can do
21 anything further about it. But if there is any way for
22 us to put that to rest, I certainly want to do so.

23 SENATOR CRANSTON: What was the reason for the
24 arrests being made for deportation purposes of the
25 alleged members? Was that a technical, legal reason,

1 were they apprehended for deportation because they were
2 "members of a Communist" organization.

3 JUDGE WEBSTER: Senator Cranston, I believe that
4 some of them were out of status and that would be
5 information, I believe, developed by the INS. But all
6 of them were arrested because they are alleged to be
7 members of a world-wide Communist organization which
8 under the McCarran Act makes them eligible for
9 deportation as foreign nationals.

10 SENATOR CRANSTON: So in a way, it was like
11 arresting a gangster for parking by a fire hydrant?. Do
12 you think that we need to revise the laws that are
13 available for this purpose? Are we using the wrong tool
14 to address a legitimate concern about terrorism and
15 terrorist operatives in the United States?

16 JUDGE WEBSTER: That's entirely up to Congress,
17 because in this particular case if these individuals had
18 been United States citizens, there would not have been a
19 basis for their arrest.

20 SENATOR CRANSTON: Is there any law that would
21 enable you to focus more narrowly on aliens who are
22 actively involved in clandestine terrorist activities,
23 rather than needing this broader law about membership in
24 a Communist apparatus? In your opinion, would it be
25 helpful to have a law that would be more precise?

1 JUDGE WEBSTER: I think it would be helpful to have
2 a law that was more precise and was treated as a more
3 serious incident than just civil deportation.

4 SENATOR CRANSTON: Under what circumstances does the
5 FBI conduct warrantless searches for intelligence
6 purposes? Is the PFLP the kind of group that might fit
7 the criteria for a warrantless search based on inherent
8 executive powers?

9 JUDGE WEBSTER: Our warrantless searches are based
10 upon, first they are based upon the inherent authority
11 of the President to protect the national security and
12 his ability to delegate that authority to the Attorney
13 General, who has in turn, formulated foreign
14 counterintelligence guidelines which include
15 international terrorist activity. I'm not able to
16 respond to the question specifically because the
17 guidelines themselves are classified. I simply can give
18 you the basis upon which, if a search were conducted, it
19 would be under that line of authority that I described
20 to you.

21 THE CHAIRMAN: Senator Cranston, we could either
22 pursue that further in a closed session or if you wish
23 to have the Director answer a classified question in
24 writing, that could also be done and made a part of the
25 classified part of our record.

1 SENATOR CRANSTON: If you could respond in writing,
2 that would be helpful.

3 THE CHAIRMAN: Senator Cranston will direct the
4 question in writing and there could be a response in
5 writing which would be a classified portion of the
6 record.

7 SENATOR CRANSTON: My time is about up, so I, thank
8 you very much.

9 THE CHAIRMAN: Senator Warner.

10 SENATOR WARNER: Thank you Mr. Chairman. Again
11 Judge Webster, I'm speaking as a citizen. I'm very
12 pleased that you are willing to take on this challenge
13 and put in an additional period of public service.

14 I want to return to the discussions that I think my
15 colleagues, Senator Nunn and Senator Cohen probed about
16 the role of the President's Chief Advisor on
17 Intelligence matters and the relationship with a
18 President. And your reference to the thought as to what
19 role politics plays in this. Would you care to sort of
20 set the foundation here of your views as to how you hope
21 to relate to your President and particularly what role,
22 if any, politics plays. Now I notice that you've never
23 sought political office; you've apparently have not been
24 a member of a political party; and with your nomination,
25 we've come full circle from your predecessor who was one

1 of the campaign managers for the President, to a person,
2 yourself, who has not been affiliated in any way. I
3 think it would be helpful to me if you would clarify
4 your views with respect to what if any role politics
5 plays in your discharge of your responsibilities in the
6 office and with your relationship with the President.

7 JUDGE WEBSTER: Senator Warner, I have to make a
8 confession that for the first 30 years of my life I
9 harbored the idea that I wanted to be a United States
10 Senator.

11 (General laughter.)

12 THE CHAIRMAN: Fortunately, that may be the most
13 damaging admission so far.

14 (General laughter.)

15 JUDGE WEBSTER: Fortunately, as you see from the
16 gentleman who -- distinguished gentleman who introduced
17 me this morning, I didn't have to pursue that arduous
18 task. But I do believe that there are certain jobs in
19 which you, if you're going to hold them properly, you
20 have to stand away from political activity and political
21 concerns even to the point of missing some fund-raising
22 dinners from time to time, which hasn't been all that
23 arduous.

24 SENATOR WARNER: I clearly agree with you in terms
25 of partisan political activities. But the CIA,

1 particularly now that we're going to strip from the
2 National Security Council the responsibility, which I
3 doubt they ever really had, for covert operations.

4 You're going to be the Chief Operator for this
5 President and perhaps the next President. Of covert
6 operations, and indeed the very essence of a covert
7 operation, it is a political judgment by a President
8 that certain assets of this nation shall be employed in
9 a foreign land to further the interest of our country,
10 primarily our national security. Now that's a political
11 decision. Let's suppose that you were called into the
12 Oval Office by a President, and he indicated that he has
13 made a finding, that it is his judgment that we should
14 pursue a certain covert action. Having had some
15 knowledge of this beforehand, you did your own
16 independent research and you wish to disagree with the
17 President. I'm sure, because I have known you
18 personally and professionally, you would in the
19 strongest of terms necessary, take him by the collar,
20 say Mr. President, you've received bad advice and I
21 caution you in the interest of our country. But then
22 after receiving your advice and all the other advice, he
23 makes a decision, we will, the United States, follow
24 this covert course of action. It seems to me that you
25 have one of two choices and they are very clear. You

1 either salute, march off and implement that cover
2 action. Or you submit your resignation. Now have I
3 succinctly stated that case as you understand it?

4 JUDGE WEBSTER: I think that's correct Senator, and
5 I think the choice would depend upon whether I thought
6 that my disagreement was so fundamental and that the
7 President's decision was so arbitrary that I could not
8 remain a part of it. I don't expect that in positions
9 like Director of Central Intelligence or the Director of
10 the FBI that in relation to the Attorney General, that
11 you have the right to thumb your nose at the authority
12 that has been placed there by the American people in the
13 President,. just because you disagree. But if your
14 disagreement is fundamental, and you know that the
15 action is arbitrary and wrong, you can't stay, and you
16 cannot in conscience support it, you've got to leave.
17 There isn't any option.

18 SENATOR WARNER: I'm most reassured by that
19 response and it clarifies that area. Now I bring you to
20 an example on the 30th of October which we reviewed in
21 the hearing this morning. Attorney General Meese asked
22 the FBI to suspend its investigation. Did you, at that
23 time, try to make any independent inquiry into why that
24 was being asked and to whether or not you should
25 exercise your judgment to say to the Attorney General, I

1 disagree with the propriety of that course of action or
2 did you just accept his request and act accordingly?

3 JUDGE WEBSTER: No, Senator. The first thing that I
4 did was to ask my own executive subordinates who are in
5 charge of those programs whether suspension would
6 adversely infect the investigation. In other words, I
7 sought a professional opinion on the impact of the
8 request. From what I already knew, that there were
9 sensitive arms initiatives going on in Iran and efforts
10 to release the hostages, and that the hostage activity
11 was getting sensitive, that was in my view a reasonable
12 request with which I did not disagree because my own
13 people had told me that it would not get in the way of
14 our operation. I was careful, I thought, to include in
15 my confirming memorandum making it a matter of record,
16 that I wanted to know if at any time, it became a
17 problem. And I think that this is one of the important
18 aspects of my responsibility if I'm selected for DCI --
19 that in these findings, or these decisions, that we make
20 sure that they be revisited, that they be reviewed and
21 that they be tested in the light of new circumstances.
22 And I wanted to be sure that in that particular case
23 that I knew if something changed -- why we should be
24 back in to this rather low-level investigation if it
25 became important. They were to tell me, and they would

1 have.

2 SENATOR WARNER: You've had an extensive record of
3 distinguished public service and now you take on this
4 new post following the confirmation of the Senate of
5 which I am certain. Do you bring to this office your
6 own agenda, a set of goals that you would like to see
7 accomplished and would those goals in any way vary from
8 those of your immediate predecessor? Or from, should we
9 say, the traditional role of the Director of Central
10 Intelligence?

11 JUDGE WEBSTER: I hesitate to answer that question,
12 because naturally, I don't know all of the goals of my
13 predecessor. I know the many great things he achieved
14 for the CIA in terms of morale and resources and
15 momentum. I think it would perhaps be a mistake for me
16 to speak as to his goals when he is not able to speak
17 for them himself.

18 I tend to a traditional view of the role of the
19 Director of Central Intelligence. I believe that the
20 most important thing that that agency does, that the CIA
21 does, and the coordinate elements of the intelligence
22 community is to gather intelligence -- intelligence
23 about capabilities abroad, intelligence about intentions
24 abroad -- that will help the policymakers make sound
25 decisions. Not to make them for them, but to provide

1 them with information upon which they can give the
2 maximum amount of confidence in making their decision.
3 I think it's my responsibility to say in the councils of
4 which I am a member what I think that intelligence
5 means. But not to shape it or manipulate it but to give
6 it all the integrity that I know how.

7 I believe that that intelligence must come from a
8 variety of techniques including human intelligence,
9 especially in the area of intentions. If we had better
10 human intelligence in Iran, we might have anticipated
11 what was going on there. Intelligence in the street,
12 rather than in the embassy, that's just a private
13 opinion. And I'm not faulting anyone, any other
14 predecessor, I just simply think human intelligence is
15 very, very important because there is really no other
16 agency in government which can carry out that function.
17 There will from time to time be calls on the agency to
18 engage in certain kinds of covert activity -- activity
19 in furtherance of a legitimate national foreign policy
20 goal that would not succeed if third countries had to
21 face the fact that our government was openly and
22 militarily involved in that effort. Those efforts are
23 controlled by a careful analysis of the ideas and
24 evolution of the plans, a Finding by the President that
25 supports them and authorizes them and oversight by the

1 Intelligence Committees of the Congress to represent the
2 American people in terms of what we are doing. All of
3 those things, I think are important responsibilities of
4 the Director of Central Intelligence and I believe, too,
5 that it is very important that he exercise his role as
6 the President's principal intelligence advisor.

7 Now if I may without pressing your time too far,
8 I'd like to say in that respect that I have had a
9 conversation with the President in the company of his
10 chief of staff and principal advisors from the National
11 Security Council.

12 SENATOR WARNER: That would be Howard Baker and
13 Frank Carlucci?

14 JUDGE WEBSTER: Yes, Frank was not there, but
15 General Powell was there in his place and memorandized
16 the conversation. In that conversation, I suggested
17 that I would think it best for me to return to the
18 traditional role of the Director of Central Intelligence
19 and not be a member of the President's cabinet. The
20 President told me that he agreed and had come to the
21 same conclusion. That I think will help to minimize the
22 perception that the Director of Central Intelligence is
23 a political officer of the President's, in the
24 President's immediate political staffing. But I felt
25 that it was very important that in making that move, it

1 be very clear that I would continue to have direct one
2 on one access to the President. Both Mr. Baker and I
3 know Mr. Carlucci from direct conversations with him and
4 his deputy subscribe to that principle, as does the
5 President. And I will exercise that one on one access
6 as well as other opportunities. I also asked for and
7 promptly was given assurances of what I call the
8 awareness principle, that I be made aware of emerging
9 issues and be invited to attend meetings of the cabinet
10 and other inner circle functions in which issues that
11 would depend upon accurate intelligence would come to me
12 at an early enough date to be of assistance in guiding
13 the President to a correct opinion. So if I have access
14 and awareness I do not need, nor want to be involved, in
15 a cabinet level function and I think we're all straight
16 on that and all in agreement on it.

17 SENATOR WARNER: Judge Webster, I thank you for
18 those responses. I think they are among the more
19 important ones for the Senate to consider as we pass on
20 your nomination. You have my support. Good Luck.

21 JUDGE WEBSTER: Thank you.

22 THE CHAIRMAN: Thank you very much Senator Warner.

23 Judge Webster, we've kept you far past the time
24 that I indicated we would this morning before breaking.
25 I think, therefore, it would be more appropriate for the

1 Committee to wait to resume until 2:30 this afternoon.
2 So we'll stand in recess until the hour of 2:30 this
3 afternoon.

4 (Whereupon, at 1:22 o'clock p.m., the Committee was
5 recessed, to reconvene at 2:30 o'clock p.m., the same
6 day.)

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 AFTERNOON SESSION

2 THE CHAIRMAN: We'll resume our questioning at this
3 point. We will continue having rounds of questions in
4 the order that we did this morning until the Members of
5 the Committee have had an opportunity to complete the
6 questions which they wish to ask. Judge Webster, I will
7 remind you that you are still under oath from this
8 morning's testimony.

9 Let me begin the questioning this afternoon. In
10 regard to the question you were asked by Senator Cohen
11 this morning, I believe that he quoted a newspaper
12 article, I believe it was in early December, quoting you
13 as stating that as of that time, you felt there had been
14 no destruction of records in the course of the
15 investigation conducted by the Attorney General.

16 JUDGE WEBSTER: Mr. Chairman, because I know these
17 are important questions, I believe I said that nothing
18 had been called to my attention. I didn't have a
19 feeling about it.

20 THE CHAIRMAN: Well, I just wonder on what basis
21 you felt that there had not been a destruction. Was it
22 merely that nothing had been called to your attention?

23 JUDGE WEBSTER: Mr. Chairman, that's why I
24 interrupted you because I didn't say I felt that there
25 had not been a destruction; I just said that we hadn't

1 found any yet.

2 THE CHAIRMAN: You had not found any evidence of
3 destruction of records. Did you make any attempt on
4 your own to check as this matter began to unfold during
5 that four day period.

6 Did you make any attempt to discuss the possible
7 destruction of records with anyone or did you endeavor
8 to have the FBI check in any way independently to
9 determine whether records had been destroyed?

10 JUDGE WEBSTER: Now, are we back -- we're on
11 December 5th --

12 THE CHAIRMAN: Between November the 21st and
13 November the 25th.

14 JUDGE WEBSTER: When I met with the Attorney
15 General following his and the President's announcement
16 at the White House and I met with -- I was waiting for
17 them when he returned to his office in the Department of
18 Justice. We convened a meeting there to discuss the
19 implications of what had been announced. And during
20 that discussion, a question of preserving the records
21 came up. And it was my understanding that the
22 Department was taking steps to ask the appropriate
23 officials to preserve their records.

24 THE CHAIRMAN: Did you do anything to assure -- or
25 what did you do yourself with FBI resources to determine

1 whether or not any records had been destroyed?

2 JUDGE WEBSTER: The Attorney General stated that he
3 had turned the question of responsible criminal
4 involvement over to the Criminal Division of the
5 Department of Justice, which was considering what, if
6 any, statutes may have been violated. And so there --
7 at that point -- the FBI was not authorized to conduct
8 an investigation.

9 THE CHAIRMAN: Did you simply take the word of the
10 Attorney General and the Department of Justice that
11 there had been no destruction of records, or did you
12 endeavor independently to assure that there was no
13 destruction of records?

14 JUDGE WEBSTER: The Attorney General did not make
15 that representation. We discussed as a group -- and I
16 considered myself a part of that senior management --
17 what should be done. One of the things that we decided
18 that should be done was that the records should be
19 preserved and the Department undertook to make -- to
20 notify those -- the appropriate officials.

21 Now, as it happens --

22 THE CHAIRMAN: You mean, they just simply -- this
23 seems to me to be a very naive approach in all honesty
24 and all candor -- to simply say, here we're dealing with
25 people that have records in their custody that are

1 suspected of criminal wrongdoing. I assume that in most
2 cases you would simply not notify someone that you
3 suspect of a criminal act; we don't want you to destroy
4 your records now that might implicate you in any
5 wrongdoing.

6 I mean, are we simply relying upon the good offices
7 of the people under suspicion not to destroy the
8 records?

9 JUDGE WEBSTER: Well, we're talking about the
10 National Security Council. We do not have an opinion
11 from the Criminal Division of the Department of Justice
12 as to what criminal statutes, if any, form the basis for
13 a criminal investigation as of this conference that I'm
14 discussing and that form of notification is not unlike
15 the forms of notification that the Senate sends out to
16 agencies in the Executive branch not to destroy records.

17 THE CHAIRMAN: Well, now we go back to November
18 25th when the press conference was held and it became
19 clear that we were into a criminal investigation.

20 JUDGE WEBSTER: That's the afternoon I'm talking
21 about.

22 THE CHAIRMAN: The afternoon of November 25th.

23 On that afternoon, at that point the FBI was asked
24 to step in, I believe.

25 JUDGE WEBSTER: No, Mr. Chairman, the FBI was not

1 asked to step in until Wednesday morning. The Criminal
2 Division was still considering what criminal laws were
3 implicated by what the Attorney General and his staff
4 had developed over the weekend.

5 THE CHAIRMAN: Now, Wednesday morning was what
6 date?

7 JUDGE WEBSTER: The 26th.

8 THE CHAIRMAN: The 26th?

9 On the 25th, what action did you take or what
10 assertions did you make in terms of preserving the
11 records?

12 JUDGE WEBSTER: Only what I have related to you,
13 that there was a discussion in the Attorney General's
14 office about preserving the records and the Attorney
15 General undertook, through the Department, to notify the
16 appropriate heads to preserve the records.

17 THE CHAIRMAN: On November 26th when the FBI was
18 called in, what actions did you take at that point to
19 assure the preservation of records?

20 JUDGE WEBSTER: The FBI checked to determine
21 whether or not the NSC records had been secured and were
22 informed that they had been secured the night before, on
23 Tuesday.

24 THE CHAIRMAN: Who informed you that they had been
25 secured?

1 JUDGE WEBSTER: I'm informed that the individual
2 who reported this to us was Mr. Jay Stevens of the
3 President's Counsel's office.

4 THE CHAIRMAN: The President's Counsel's office
5 informed you that they had been secured?

6 What action did you take to independently verify
7 whether or not they had been secured other than just
8 taking the word of the White House Counsel who might
9 well have been not an unbiased source in this matter.

10 JUDGE WEBSTER: Mr. Chairman, I was in Chicago at
11 that point. But the agents who were involved were
12 investigating, conducting interviews, and I am sure they
13 did whatever was appropriate.

14 THE CHAIRMAN: What action have you taken to make
15 sure they did whatever was appropriate? What check have
16 you made of their actions?

17 We've had this report which was alluded to by the
18 Vice Chairman this morning. It's been in the press that
19 Fawn Hall, among others, have indicated that there were
20 large amounts of records shredded and destroyed during
21 this period of time.

22 JUDGE WEBSTER: Which period of time, Mr. Chairman?

23 THE CHAIRMAN: Well, from November 21st on.

24 And, therefore, I'm wondering what independent
25 check you made or what personal attention you gave to

1 the protection and preservation of those records at the
2 time when it would be somewhat, I think, negligent to
3 simply rely upon the assurances of say, the President's
4 Counsel's office.

5 JUDGE WEBSTER: Well -- that was the first check
6 that was made. I can't answer because I said I was in
7 Chicago. But the -- I received reports from time to
8 time from my officials on the investigative steps that
9 were taking place. And when the Independent Counsel was
10 appointed, he, of course, assumed responsibility on
11 December 19th.

12 THE CHAIRMAN: On December 19th?

13 JUDGE WEBSTER: He was appointed on December 19th.
14 He asked us to continue our investigations until he
15 actually took over.

16 THE CHAIRMAN: Who took physical custody of those
17 records?

18 In other words, were they put under lock and key,
19 under guard? Who took physical custody? Do you know?
20 Of those documents in the period -- Say if we start with
21 November 21st, when the Attorney General began his
22 inquiry on through the morning of November 26th when the
23 FBI was officially called in up to the the date in
24 December when the Special Counsel was appointed -- who
25 assumed responsibility for physical control and custody

1 of the documents in the period from November 21st
2 through the date in December when the Independent
3 Prosecutor was appointed?

4 JUDGE WEBSTER: I'm informed by Mr. Clarke, who is
5 in direct charge of that investigation who is present
6 here this morning, the Assistant Director, that agents
7 were sent promptly to the National Security Council to
8 verify that they were in fact sealed and to make
9 arrangements to have access to the sealed documents for
10 inspection and investigation.

11 THE CHAIRMAN: So, an agent, you may feel free to
12 turn to Mr. Clarke, on what date were agents sent to
13 verify that the documents were sealed in a manner in
14 which they could not be tampered with?

15 MR. CLARKE: On the 26th.

16 THE CHAIRMAN: That was on the 26th.

17 Let me go back to the question of your colleagues
18 and associates bringing to you concerns. Senator Cohen
19 asked you this morning about colleagues, I believe the
20 Deputy Director Mr. Revell and others had mentioned to
21 you concerns about the activities of Colonel North.

22 I want to recall your answers as to what kinds of
23 concerns your colleagues brought to you about Colonel
24 North?

25 JUDGE WEBSTER: Well these concerns which we

1 discussed at various times had to do with a free-
2 wheeling kind of atmosphere. I want to be careful of
3 what I'm saying about someone who is not charged here.
4 I think we worried about his influence in the National
5 Security Council. He was a very gung ho person, a very
6 tunnel visioned, outgoing -- rather result oriented
7 without what I could only term a broader gauge approach
8 to the implications of what he was doing.

9 That may or may not be true. That was the kind of
10 concern that we had -- that these think tanks might turn
11 into action tanks, and that we might not know about it.

12 THE CHAIRMAN: Did you have any question as to
13 whether or not he was acting within the bounds of
14 instructions or powers or authority given to him by
15 those above him?

16 JUDGE WEBSTER: Well, I think there was some
17 anxiety on our part to be sure that that was the case,
18 but we were never -- we were never -- I know that Mr.
19 Revell was checking -- we were never tasked that I can
20 remember to do anything so it didn't come into an issue
21 of his authority. But there was just some general
22 concern that something foolhardy might take place
23 without the proper scrutiny by others who might have a
24 more balanced judgment.

25 THE CHAIRMAN: Roughly, during what period of time

1 did you and Mr. Revell and perhaps others in the Bureau
2 have discussions among yourselves regarding concern
3 about Colonel North?

4 JUDGE WEBSTER: It was going on for a long time. I
5 don't want to suggest that we were panicked by it or
6 that we were -- we had high anxieties pains. We just
7 regarded him as a different kind of person than we
8 normally associate with the National Security Council
9 and its proper function. And we tried to be a little
10 more watchful about the activities in which he took a
11 role.

12 THE CHAIRMAN: To whom did you or Mr. Revell
13 express these concerns that you felt over this period of
14 time?

15 JUDGE WEBSTER: Well, it was more of a matter of
16 opinion expression rather than asking anybody to do
17 about it. I discussed this with the Attorney General.
18 He was aware -- he was aware of Ollie North as the kind
19 of personality that he was and my concern that we stay
20 on top of what was going on in the National Security
21 Council to be sure that things were not getting out of
22 hand.

23 THE CHAIRMAN: Now we know that on October 30th,
24 there was this memorandum we have referred to where this
25 person in the Justice Department was quoted as

1 expressing concern about the possible criminal
2 prosecution of Colonel North. You've said that over a
3 period of time, you, Mr. Revell and perhaps others had
4 discussions among yourselves about concern as to the
5 judgment of Colonel North.

6 JUDGE WEBSTER: I think that's it, in judgment. I
7 don't think any of us questioned his regard for the law
8 and certainly he was a likable kind of person, but he --

9 THE CHAIRMAN: You had some discussions at least
10 with the Attorney General about it. You had --

11 JUDGE WEBSTER: In general -- in general terms,
12 yes.

13 THE CHAIRMAN: In general terms.

14 You had the investigation of Southern Air
15 commencing earlier which was suspended on October the
16 3rd. I presume the investigation was of whether or not
17 appropriate or inappropriate activities were being
18 undertaken to aid the resistance in Nicaragua. I
19 presume that those investigations might have also
20 touched upon concern about Colonel North as well. I'm
21 sure Colonel North's name would have popped up in that
22 he was very much involved in the recruitment and raising
23 of funds for these various operations.

24 My question is did you ever express this concern to
25 the President as to whether or not the President was

1 fully aware of activities of Colonel North?

2 JUDGE WEBSTER: No, I did not. I didn't have any
3 solid information in that area at all that would have
4 warranted my expressing that kind of opinion even to the
5 Attorney General.

6 THE CHAIRMAN: Senator Cohen?

7 SENATOR COHEN: Mr. Chairman, the question about
8 the memo should not be seen as raising exaggerated
9 concerns on the part of the Committee, Judge Webster.
10 Part of the difficulty is, as Senator Moynihan pointed
11 out earlier, there have been several occasions in the
12 past several years, including the mining of the harbors
13 in Nicaragua and several other cases in which the
14 Committee was not notified of certain items, and then we
15 had a Deputy Secretary of State Department come up and
16 publicly acknowledge that he thought he had successfully
17 circumvented the nature of this specific question asked.

18 And I think the question that was posed to you was
19 perhaps inartfully asked. I don't know why, in question
20 number three, that we said on what date did you learn,
21 either directly or indirectly, from sources other than
22 public media. I don't why we excluded the public media,
23 but we did. And, for that reason, you concluded that it
24 was not necessary to inform the Committee about this
25 memo.

1 It really comes down to how specific do we have to
2 be? Do we always have to ask the right question or be
3 precluded from getting at least the spirit of the answer
4 we are looking for. I think that is the context in
5 which many of the questions are now being asked of you.
6 Had it not been for the Special Prosecutor --
7 Independent Counsel -- we would not have known about
8 this and we didn't learn about it until last evening.
9 And so it raises an issue as to how specific we have to
10 be in the future in terms of getting information.

11 With respect to that --

12 JUDGE WEBSTER: May I say something about that,
13 Senator? I certainly agree with what you are saying.
14 As I pointed out in my statement to you that the public
15 source thing was only part of the equation. The other
16 equation was that there was just simply nothing in that
17 memorandum that pointed towards the illegal activities
18 of U.S. government officials, which is what the question
19 asked for. And I don't think any of us felt that it was
20 included in that equation. And not that we were trying
21 to hide anything from you. I didn't even remember that
22 memorandum.

23 SENATOR COHEN: For the benefit of the press who
24 has been inquiring -- it has nothing to do with Iran.
25 Colonel North himself is not mentioned in the memo. But

1 it does, according to your answer, include that a
2 Justice Department official, based on her reading of
3 newspaper articles concluded that Colonel North might be
4 involved in a future criminal probe by a Special
5 Prosecutor concerning U.S. activities in Central
6 America.

7 So, there was at least some concern at a certain
8 level that he might be prosecuted at some future time.

9 I guess the question I have is that if, in fact,
10 you were worried about the influence of Colonel North
11 within NSC as you have just stated to Senator Boren, if
12 in fact you were concerned about NSC being involved in a
13 covert operation as far as actually carrying out the
14 covert operation, why weren't you also concerned about
15 the possible destruction of records once the matter
16 started to come to public light and there was going to
17 be an investigation?

18 In other words, if you have a man who, according to
19 one official, may be subject to criminal prosecution
20 sometime in the future, you have concerns about an
21 individual who is gung ho and perhaps a bit too
22 aggressive or whatever, are generally concerned about
23 his activities in terms of judgment, and then a matter
24 of this magnitude erupts suddenly -- now got a major
25 investigation or inquiry going -- undergoing the

1 process, why wouldn't you also have a concern about what
2 would be taking place over that week -- in that four or
3 five day period -- about who's in charge of the NSC?
4 What's happening in that office? I didn't detect that
5 in your response.

6 JUDGE WEBSTER: Well, if you're asking me to
7 inquire into my state of mind, which I think you are,
8 you have to get rid of that memorandum that supplied
9 some information about -- that had had attached to it a
10 note that the government official -- Bob, maybe that
11 ought to be shown to -- I just had no recollection --
12 that was not in my mind. It was -- and not considered
13 to be important. I really still don't consider it to be
14 important.

15 Be it the substance of the memorandum or the
16 comment of the United States Attorney. So what I had, I
17 think it --

18 SENATOR COHEN: Does it adopt any importance in
19 your mind now after the fact, looking back saying that
20 here's a man who may be under possible indictment by a
21 Special Prosecutor for perhaps obstruction of justice?

22 JUDGE WEBSTER: No, because the Department official
23 was just observing what was in the newspaper. With no
24 extra information at all on that subject. But I think
25 your question is a legitimate one about preservation of

1 records.

2 I was not -- I was frankly not concerned over the
3 weekend, because at that time, I did not believe that
4 there was concern about a criminal violation touching on
5 the Iranian arms shipment. I had been informed that
6 there was a Finding, that it had been reviewed by the
7 Attorney General, and that the action was lawful. I had
8 no reason to believe that either the National Security
9 Advisor or Colonel North had any reason to conceal
10 information about a lawful activity.

11 If that was naivete, I confess to it. But
12 sometimes in twenty-twenty hindsight, things seem a lot
13 clearer than they did at the time. That's the way it
14 was. That was the way we were looking.

15 When we became aware of the new issue -- that is
16 the diversion of funds to the Contras -- it may be that
17 I and indeed the other members of the senior management
18 of the Department should have been more aggressive in
19 more rapidly freezing information. I believe, and I
20 can't comment on this without getting into the
21 Independent Counsel's business, that any damage that was
22 done was done prior to that Tuesday afternoon meeting.
23 And, as I said, the FBI, who was given jurisdiction,
24 moved in promptly on its own to make sure those areas
25 were taken care of.

1 Now, you can say yes we should have done it a day
2 earlier. And I won't quarrel with that. I'm certainly
3 willing to be second-guessed, and I try to second guess
4 myself on that. But I can only tell you the way it was
5 and how it appeared to me.

6 SENATOR COHEN: On Southern Air Transport, what was
7 the nature of the FBI's investigation into Southern Air
8 Transport that began in late October after a plane was
9 shot down in Nicaragua?

10 JUDGE WEBSTER: The plane was shot down in
11 mid-October or early October. It did not involve -- it
12 was not a Southern Air airplane. But reports circulated
13 quickly in the newspapers that the plane that had
14 started in El Salvador and it landed -- it crashed in
15 Nicaragua, had been maintained in some way at the
16 Florida facility of Southern Air Transport. And so we
17 opened a preliminary inquiry --

18 SENATOR COHEN: What was the nature of the inquiry?

19 JUDGE WEBSTER: Well, the nature of the inquiry was
20 to ask for records which were not readily destructible.
21 That is records from official agencies about the tail
22 number, registration --

23 SENATOR COHEN: What was the purpose of it -- to
24 find whether there was a violation on Congressional ban
25 on assistance to Nicaragua? What was its purpose?

1 JUDGE WEBSTER: I think it was a Neutrality Act
2 predicate, that is, whether or not we were furnishing
3 arms or anything of that kind that was specifically
4 banned by statute, and to a neutral nation -- I mean to
5 enemies of a nation with whom we are not at war. And we
6 were looking to see if there was a connection. We
7 wanted some records. We had an informant. We had
8 interviewed the informant. All that we needed to do at
9 that point was to have a second interview with the
10 informant.

11 SENATOR COHEN: Now, when you were contacted by the
12 Attorney General's office -- the Attorney General or
13 Oliver North had contacted your office?

14 JUDGE WEBSTER: Mr. Trott, the Associate Attorney
15 General, called me.

16 SENATOR COHEN: On behalf of the Attorney General?

17 JUDGE WEBSTER: On behalf of the Attorney General.

18 SENATOR COHEN: Okay. And he said that he would
19 ask that you would delay for ten days so that you
20 wouldn't jeopardize the sensitive negotiations?

21 JUDGE WEBSTER: I want to emphasize that he said if
22 we would suspend for ten days any non-urgent
23 investigative business.

24 SENATOR COHEN: Were there any urgent aspects to
25 your investigative --

1 JUDGE WEBSTER: Not that I am aware of. I asked Mr.
2 Clarke that specific question, and he said absolutely
3 not.

4 SENATOR COHEN: Were you curious as to how your
5 investigation into the relationship between Southern Air
6 Transport and the plane that was down in Nicaragua could
7 somehow jeopardize these delicate negotiations?

8 Weren't you curious to say well how in the world is
9 that possible?

10 JUDGE WEBSTER: No, Senator Cohen. I was not. I
11 was not as curious as you might think because in early
12 October, Colonel North had called -- after the crash --
13 Colonel North had called Mr. Revell, who was then at a
14 meeting in Nashville. I had attended the same meeting
15 but had left the city. And he called to let him know
16 that the same place -- he was aware that we were
17 investigating something at Southern Air and that he
18 wanted us to know that that was the airplane company
19 that had helped them on the other operation, I think was
20 the way he described it. Which he -- over in the other
21 place and --

22 SENATOR COHEN: Assuming that to be the case, that
23 this airline was operating in Iran and in Central
24 America, again, wouldn't you be curious as to why your
25 investigation as to its operations in Central America

1 would somehow jeopardize the release of hostages over in
2 Iran?

3 I mean I don't understand the connection.

4 JUDGE WEBSTER: The question that the -- the way
5 the Attorney General put it through Mr. Trott was that
6 they were trying to preserve a safe environment for
7 hostage negotiations that were going on at that time.
8 And the concern was that any public awareness of
9 Southern Air's involvement in the Iran would -- now this
10 is not coming from the Attorney General, this is what
11 I'm deriving from my conversation with Mr. Revell --
12 might expose the hostage negotiations.

13 SENATOR COHEN: But at that point your
14 investigation was confined really to seeing what the
15 relationship was of Southern Air Transport to Nicaragua?
16 It had nothing to do with Iran?

17 JUDGE WEBSTER: That's right.

18 SENATOR COHEN: I guess the question is how do you
19 make the leap to get into Iran that the Iranians somehow
20 might be upset to see that the FBI was investigating the
21 nature of Mr. Husenfus's activities in Central America
22 that somehow might jeopardize the negotiations currently
23 underway in Iran?

24 JUDGE WEBSTER: Well, there was great sensitivity
25 over there as evidenced by the fact that the Congress

1 was not -- that you were not told of what was going on
2 about having any information about what was going on or
3 who was supporting that activity get out in the public
4 domain in any way.

5 SENATOR COHEN: So that it really was not a
6 question of directly jeopardizing the negotiations, but
7 rather that if Congress got any wind of your
8 investigation into Southern Air, we might start
9 inquiring further, and that might unravel the
10 negotiations.

11 JUDGE WEBSTER: I didn't tie Congress into it. I
12 tried to use that as an illustration that -- for the
13 same reason --

14 SENATOR COHEN: That's a pretty good illustration.
15 I mean I don't disagree with what you've said. That
16 probably was the rationale, wasn't it?

17 JUDGE WEBSTER: Well, I didn't ask what the
18 rationale was. It did not seem unreasonable to me since
19 the -- Mr. Clarke said there was no problem with that
20 investigation, that it was not that kind of an urgent
21 investigation and it could wait for ten days.

22 When you are talking about very sensitive hostage
23 negotiations, we were all aware that the efforts were
24 being made to get the hostages out. That there is a lot
25 of sensitivity at that time and no one wants to rock the

1 boat. And, as long as it did not interfere with an
2 ongoing investigation, I had no problems with it.

3 SENATOR COHEN: Time has expired. Thank you.

4 THE CHAIRMAN: Senator Metzenbaum was not able to
5 ask his questions this morning so I'm going to turn to
6 him next.

7 SENATOR METZENBAUM: Thank you, Mr. Chairman. As
8 you know, I had a bill on the Floor and was not able to
9 be here at that time.

10 THE CHAIRMAN: Correct.

11 SENATOR METZENBAUM: Judge Webster, I'm happy to
12 see you again and welcome you.

13 JUDGE WEBSTER: Thank you, Senator.

14 SENATOR METZENBAUM: I'm concerned, Judge Webster,
15 about the question of maybe who is watching the chicken
16 coop and whether the fox is in the coop. I'm concerned
17 about instances when the press reports a case of
18 possible wrongdoing by an Administration official, such
19 as in the Wedtech case, involving Mr. Nofziger and Mr.
20 Wallach and now, perhaps, Mr. Meese. The question is
21 what does the FBI do? In the Wedtech case, we have in
22 Mr. Wallach a man who prides himself on his close
23 relationship, in fact says that he had been approached
24 by Wedtech, quote, "because of my notoriety as a good
25 friend of Ed Meese," unquote.

1 And in that case, the Attorney General causes to be
2 set up at their instance a meeting in the White House
3 -- and thereafter Wedtech gets a 32 million dollar
4 no-bid military contract. The Army had been opposed to
5 it. The Army dropped its objections. Now we know about
6 Mr. Nofziger's involvement and we know about the
7 involvement of another individual -- Jenkins. But Mr.
8 Wallach comes in from out of nowhere and is hired by
9 this company because he is very close to Mr. Meese.

10 My question is what does the FBI do when they read
11 stories of this kind? What is your role as Director?
12 There may or may not have been law violations here, but
13 the person involved may be the Attorney General of the
14 United States. And he's the one who calls for the
15 appointment of an Independent Counsel. What are you
16 doing or what do you intend to do with reference to this
17 kind of matter?

18 JUDGE WEBSTER: I think that the procedure,
19 Senator Metzenbaum, is pretty well set out in the ethics
20 in government -- rather the Independent Counsel statute
21 which sets out that we will promptly consult with the
22 officials in the Department of Justice -- not the
23 Attorney General, but the people in the public integrity
24 section, the career people -- and advise them of any
25 allegations or information that has come to our

1 attention. Then under the statute there is a period of
2 time during which we attempt through means other than
3 grand jury process to obtain any additional information
4 that will help the Attorney General decide whether or
5 not to appoint an Independent Counsel. He must make a
6 finding to the court designated for the appointment of
7 Independent Counsel within a stated period of time.
8 While I don't have all those procedures firmly in my
9 head, it is a self-driving procedure under the statute.

10 SENATOR METZENBAUM: But you missed my point. He
11 may be the one who ought to be investigated. There may
12 have to be a special Independent Counsel appointed in
13 connection with his activities. I don't know that, but
14 I think the people of this country are entitled to have
15 a satisfactory answer. And the only one who can make
16 the investigation and to go forward with the matter is
17 your arm of government. And my question to you is not
18 alone with revolving around Mr. Wallach and Wedtech. We
19 know that in the Whittlesley case --

20 JUDGE WEBSTER: Which case, sir?

21 SENATOR METZENBAUM: Whittlesley. Ambassador
22 Whittlesey. W-H-I-T-T-L-E-S-L-E-Y, where the Attorney
23 General was involved, where he decided not to -- there
24 was no need of Independent Counsel. We also know that
25 in the Schmults case there was an Independent Counsel in

1 connection with one other person in that matter.

2 SENATOR NUNN: Mr. Olsen.

3 SENATOR METZENBAUM: In that case that there was
4 the withholding from the Congress in an executive
5 privilege dispute, of certain papers that were in the
6 EPA. And Deputy Attorney General Schmults reportedly
7 took it upon himself to withhold from Congress hundreds
8 of pages of handwritten notes without telling the
9 Committee he was doing that, and finally Attorney
10 General Meese was forced to ask for an Independent
11 Counsel. But he has refused to let that Counsel
12 investigate Mr. Schmults or Miss Dinkins.

13 Now as a matter of fact, the Independent Counsel
14 even went to court asking for the right to investigate
15 Mr. Schmults. Mr. Schmults is also a friend of Mr.
16 Meese's. Miss Whittlesley is a friend of Mr. Meese's.

17 There is also another matter. We know of Mr.
18 Meese's involvement. As we read in the paper yesterday,
19 Meese learned about sale of arms -- and a probe that was
20 being done having to do with arms sales-- to the
21 Contras. And Mr. Meese sticks his nose into a pending
22 investigation that is being conducted by the Justice
23 Department. And Mr. Meese is asked why he is sticking
24 his nose in. He says I wanted to see if he had such an
25 investigation going on because I had seen it in the

1 newspaper.

2 Well, all of these things involved special
3 interests of Mr. Meese. And my question is, how can the
4 American people rely upon the investigative arm of the
5 United States Government to do something, to find out
6 whether there is and has indeed been a law violation, if
7 everything that you do stops with the man who himself
8 may be the investigatee?

9 JUDGE WEBSTER: There have been a lot of problems
10 with the statute over the last several years. And
11 interpreting all the way to the questions going to the
12 constitutionality of the statute. The statute, in some
13 respects, is confining on the investigative arm because
14 if a protected person, rather not a protected person --
15 excuse me -- a covered person, that is a person who is
16 subject to the provisions of the Independent Counsel
17 act, is under investigation, then we must necessarily
18 confine the scope of our investigation in order not to
19 step on the shoes of the Independent Counsel if one is
20 appointed. These all follow a statutory scheme and if
21 there is a problem with the Act of the kind you suggest,
22 Senator, then I think the Congress ought to look at the
23 Act and see if it needs improvement --

24 SENATOR METZENBAUM: But I don't think that's the
25 end of it. I don't think it's enough to say that we

1 ought to look at the Act to change it.

2 The question I'm really asking you is, has the FBI
3 in the past, or do they intend to, investigate these
4 four separate issues that have to do with the Attorney
5 General himself and his conduct? And if you don't
6 investigate them, nobody will investigate them. If you
7 investigate them and then you say to the Attorney
8 General, we believe an Independent Counsel ought to be
9 appointed to investigate the Attorney General, that
10 would be one thing. Or you could say, we believe that
11 there is enough involved in this matter to submit it to
12 a grand jury without going through the Independent
13 Counsel.

14 But absent that, here you have four separate
15 instances, and I think I can dig up another four without
16 too much difficulty, regarding the Attorney General's
17 conduct itself, and there is no action -- and even one
18 case where the Independent Counsel, is saying I want to
19 investigate. And the Attorney General is standing there
20 protecting his friend.

21 Wallach was his friend. Schmults was his friend.
22 Whittlesley was his friend. And in the Contra arms
23 sale, there was a question of friendship, but a question
24 of ostensibly attempting to advance Administration
25 policy.

1 JUDGE WEBSTER: I believe the courts have passed
2 some judgment on what an Independent Counsel can do and
3 what the scope of the Independent Counsel's authority is
4 when it comes to a question of appointing or not
5 appointing an Independent Counsel. The Attorney General
6 has to give his report to the Congress. I would expect
7 that an Attorney General would always consider whether
8 or not the matter requires his recusal. And I am sure
9 that that has been done, but I really don't know how to
10 answer your question. We will investigate just as
11 vigorously as possible any matter within our
12 jurisdiction. If it happens to come within the
13 provisions of the Independent Counsel statute, then we
14 are required to coordinate our work through the career
15 department officials who will determine the timing and
16 the scope of our investigation.

17 SENATOR METZENBAUM: Will you investigate the
18 Wedtech matter and the Attorney General's personal
19 involvement in that matter?

20 JUDGE WEBSTER: It's my understanding that we did
21 participate in the preliminary inquiry.

22 We are, and that is a pending investigation, I'm
23 just not at liberty to comment on what we are doing.

24 SENATOR METZENBAUM: I'm sorry.

25 JUDGE WEBSTER: I say, there has been and there is

1 a pending investigation. I'm just not at liberty to
2 comment on the details of it because it is a pending
3 investigation.

4 SENATOR METZENBAUM: I think that this goes to the
5 integrity of the process, because it is the Attorney
6 General who is involved -- to the extent that he is
7 involved, and I don't know whether he violated any laws
8 or not, but I think the American people are entitled to
9 know. And I would hope that will there be some report
10 or some indication at the conclusion of your
11 investigation.

12 JUDGE WEBSTER: There will be a report which will
13 go to the court and whether it's signed by the Attorney
14 General, or, if he should recuse himself by the person
15 who stands in his shoes, I'm not in a position to say at
16 this time. But it is a report that is required of the
17 senior official in the department acting at that time in
18 that capacity.

19 SENATOR METZENBAUM: Director Webster, my time has
20 expired and I'm not sure whether I will be able to have
21 another round of questioning, but either today or
22 tomorrow I do want to get into the entire Varelli
23 matter.

24 JUDGE WEBSTER: Certainly.

25 SENATOR METZENBAUM: Thank you, Mr. Chairman.

1 THE CHAIRMAN: Thank you, Senator Metzenbaum.

2 Senator Murkowski, I know you were otherwise tied
3 up this morning. You may wish us to go on to Senator
4 Specter before we come back to you. Are you prepared to
5 ask your questions now, or would you like to defer to
6 Senator Specter?

7 SENATOR MURKOWSKI: No, I think I'll wait a little
8 further. I think there will be time.

9 THE CHAIRMAN: Senator Specter?

10 SENATOR SPECTER: Thank you very much, Mr.
11 Chairman.

12 Judge Webster, since this morning's round of
13 questioning, I have had an opportunity to review the
14 memorandum of October 30th, 1986, that you had addressed
15 as an addendum in your opening remarks. And there are
16 two portions of this memorandum which seems important to
17 me. One portion of the memorandum which contains a
18 notation that Lieutenant Colonel North may soon be
19 involved in a criminal probe concerning United States
20 activities in Central America by a special prosecutor.
21 And a second notation in the memorandum that it would
22 not be possible to advise other persons in the NSC --
23 National Security Council -- and be assured that the
24 information would not be made available to Lieutenant
25 Colonel North.

1 Your initials appear on the face of the memo. My
2 question to you is are those two matters of sufficient
3 importance that had you read this memo you would have
4 recollected?

5 JUDGE WEBSTER: I have already told you, Senator,
6 that I did not in fact recollect it. And those are my
7 initials, so I did read it.

8 SENATOR SPECTER: Well, I ask you specifically,
9 Judge Webster, in the context of those two comments;
10 I had not asked you about those comments before because
11 I'd only had a summary memo from Intelligence Committee
12 staff. Now I have seen the memo itself. I focus on the
13 language about Lieutenant Colonel North and that he may
14 soon be involved in a criminal probe concerning U.S.
15 activities in Central America by a Special Prosecutor.
16 And I come back to the questions which were asked by
17 Senator Boren earlier about your taking this up with
18 higher officials in the Executive branch and you
19 testified that you had with Attorney General Meese, in a
20 general way, you used expressions that North was gung ho
21 and had tunnel vision. That's substantially different
22 from the statement in a FBI memo on an evaluation that
23 he might be involved in a criminal prosecution.

24 And my question is -- and I don't know if it's
25 useful to pursue it if you don't remember having read

1 this -- but isn't this the kind of serious matter
2 relating to somebody in the White House, and the
3 National Security Council's key position where the
4 Director of the FBI ought to take that up with the
5 Attorney General or even the President.

6 JUDGE WEBSTER: I don't think so. But you can
7 fault my judgment on it. It was an informational
8 memorandum. It was a speculative comment by a
9 Department official, not an official advice. It was a
10 speculative comment. It was not taken seriously by
11 anyone else who was actually working those
12 investigations. I received no further communications
13 from my own people about it. And so I simply have to
14 put it in the context at the time. And it probably
15 explains why I don't remember it. I'm sure I read it,
16 but I didn't remember it because there are a lot of
17 things that I have read that I don't now remember that
18 are just informational.

19 SENATOR SPECTER: Well, Judge Webster, I don't know
20 that it is speculative. And on the face of this memo, I
21 candidly don't agree with that.

22 JUDGE WEBSTER: Well, the official says it was
23 speculative. And the official says that it was based
24 upon newspaper reports exclusively.

25 We've talked to the official about it.

1 SENATOR SPECTER: Well, this memo says that the
2 information would be redundant with that publicly
3 available. But the memo itself does not say that the
4 information is based on newspaper sources.

5 JUDGE WEBSTER: Well, the information contained in
6 the main memorandum which was not about Lieutenant
7 Colonel North was redundant.

8 SENATOR SPECTER: Well, what is your basis for
9 saying that it was speculative that Lieutenant Colonel
10 North might be the subject of criminal investigation
11 involving a Special Prosecutor?

12 JUDGE WEBSTER: " Might" or "may" is speculative.

13 SENATOR SPECTER: Well, if it is speculative, is it
14 not serious? Is it not something to be pursued with
15 substantial concern?

16 JUDGE WEBSTER: If there is an investigation in
17 fact, Senator Specter, I hope it would come to me by
18 some other means than by an officer not involved in that
19 speculating about the newspapers. That was just
20 informational. That is the way it must have been taken
21 by me. But as I have testified, I regret that I have to
22 tell you I don't remember that memorandum.

23 SENATOR SPECTER: Well the memo doesn't say that
24 it's either speculative or based upon newspapers. You
25 may conclude that it's speculative. I don't read it

1 that way. My judgment is that if their reading is not
2 that, but even if it were, it's pretty serious.

3 If you add to it, Judge Webster, that the
4 conclusion is reached not to advise other purposes in
5 the NSC because there is no assurance that the
6 information would not be made available to Lieutenant
7 Colonel North, isn't that a serious matter? If you have
8 information which comes to the FBI and that matter is
9 such that it ought to be referred to the NSC, pretty
10 important material, and you can't do so because North
11 will see it, isn't that a serious matter?

12 JUDGE WEBSTER: I won't argue with you, Senator.
13 If you want to call it a serious matter and say that I
14 was negligent in failing to view it as a serious matter,
15 I'll accept your verdict on that.

16 But if you were to ask the person who made that
17 report, that person would tell you it was based entirely
18 on newspaper reading.

19 SENATOR SPECTER: Well, I don't have a judgment on
20 it, Judge Webster. I'm just asking questions. I'm
21 trying to figure out -- I'm trying to figure out your
22 role in it. But it seems to me that if the FBI is not
23 going to pass information on to the National Security
24 Council because North may have access to it and if North
25 even speculatively may be the subject of a criminal

1 probe by a Special Prosecutor, that's serious business.
2 And that when the FBI Director reads it, he ought to
3 note it. And he ought to tell the Attorney General
4 about it. And may be he ought to tell the President
5 about it.

6 This language just can't be blown away. And now we
7 have, a few months later, North, under investigation by
8 a Special Prosecutor. And we have North being involved
9 in calling up the FBI and saying this is the same outfit
10 which is taking care of our business in Iran. This is
11 the same man who is handling a great many matters. This
12 is a man who you say is flawed with tunnel vision, he's
13 gung ho, that he's result oriented, that he has no broad
14 gauged concern.

15 Now those aren't the characterizations of a
16 criminal. But those are red flags. Those are danger
17 signals.

18 Well, I have asked the questions and I think I've
19 gotten your answers.

20 Let me come on to the subject of the information
21 you had about the sale of arms to Iran where you had
22 been informed, as you said, about August 6th of 1986,
23 that there was a sale of arms to Iran and you had taken
24 it up with the Attorney General. And I had touched on
25 this briefly in the opening round of questions and

1 really didn't get finished with it. And had asked you
2 in the albeit brief conversation which you had with
3 Attorney General Meese on November 21st, 1986, what was
4 said, if anything, specifically about the sale of arms
5 to Iran?

6 JUDGE WEBSTER: I believe my response, Senator
7 Specter, was that I was the one who outlined what I
8 knew, or what I, rather, what I had been told and asked
9 him whether that was correct.

10 SENATOR SPECTER: Which conversation are you
11 talking about?

12 JUDGE WEBSTER: We're talking about the only one we
13 had about this thing, November 21, on Friday.

14 SENATOR SPECTER: And what did you say specifically
15 to Attorney General Meese, if anything, about the sale
16 of arms to Iran?

17 JUDGE WEBSTER: All right, it went something like
18 this, as best I can recall. It was following a luncheon
19 or breakfast meeting in his dining room. I followed him
20 into his office and I said that I had been advised by
21 Buck Revell that at an OSG meeting, Oliver North had
22 said that there was a -- that they were working on a new
23 Iranian initiative which involved some backwater or back
24 channel negotiations to reopen relations with certain
25 parts of the Iranian people, that it might involve a

1 shipment of -- or would involve a shipment of arms and
2 possibly some hostage negotiation -- some assistance
3 with the hostages, that I understood that there had been
4 a Presidential Finding supporting this and that he had
5 seen it and approved it. And I just wanted to be sure
6 that he had seen and that he had approved it. That's
7 the substance of the conversation.

8 SENATOR SPECTER: That's November 21st, 1986?

9 JUDGE WEBSTER: That's correct.

10 SENATOR SPECTER: And at what point did Mr. Meese
11 say to you that he was going to conduct some inquiry and
12 where you agreed to?

13 JUDGE WEBSTER: I beg your pardon. I've been
14 focusing on the wrong date. This information came to me
15 --

16 SENATOR SPECTER: Well, I thought you might have.
17 That's why I came back to August --

18 JUDGE WEBSTER: Yes, I'm sorry. I apologize for
19 that that.

20 Everything that I said is correct, but it occurred
21 shortly after August 5th, which was the day that I
22 received the information from Mr. Revell. I beg your
23 pardon.

24 SENATOR SPECTER: All right. So on that day there
25 had been--

1 May I have about three minutes, Mr. Chairman, until
2 I can come back to another round?

3 THE CHAIRMAN: Please go ahead and complete your
4 line of thought.

5 SENATOR SPECTER: All right, thank you very much,
6 Mr. Chairman.

7 So on August the 5th you had the conversation with
8 Attorney General Meese about the backchannel
9 negotiations and the shipment of arms to Iran and some
10 hostages being involved.

11 Now, what conversation did you have with Mr. Meese
12 on November 21st, 1986?

13 JUDGE WEBSTER: Yes, that was a -- following some
14 other reason for my being there, I think we were -- we
15 had been working on a National -- on our department
16 resources board meeting as I best recall. I'm not
17 certain. The Attorney General mentioned to me as I was
18 getting ready to leave -- I think it probably was
19 prompted by some comment of mine about the confusion of
20 statements in the press about what was going on, what
21 happened in Iran -- that the President had asked him to
22 determine the facts. And that he was going over and was
23 going to talk to the various people involved and was
24 going to try to get the facts straight. Get them
25 accurate.

1 SENATOR SPECTER: Was it at that point that you
2 made an offer of personnel?

3 JUDGE WEBSTER: At that point, I said, "Can we be
4 of any help?"

5 SENATOR SPECTER: And he said what?

6 JUDGE WEBSTER: As best I can recall, he said, "No
7 I don't think so. I don't think there's any need for
8 it, there's nothing criminal about this that I can see,
9 do you?" And I said, "Well no, not on the basis of what
10 I know now.

11 And we agreed. And that was the end of the
12 conversation.

13 SENATOR SPECTER: Well, the question which comes to
14 my mind, Judge Webster, was the one which I had started
15 to pursue with you this morning. And that was that in
16 the context of the conversation you had shortly after
17 August 5th, 1986, about the backchannel negotiations and
18 the hostages, and the sale of arms to Iran, and the
19 federal laws, the Export Administration Act which bars
20 exports of goods to nations which support terrorism and
21 Iran had been so classified in the Export Arms Control
22 Act which regulates transfers of munitions and requires
23 Congressional approval. The President can't handle it
24 on his own Finding. You have to have Congressional
25 notification and be overruled. In the totality of that

1 context, why did you not consider that there might be
2 some criminality involved or allegation of criminality
3 or possibility of it?

4 If I can supplement it as the final comment I have,
5 you said earlier, Judge Webster, that when Senator Cohen
6 asked you what you would have done differently and then
7 he said what would you have done. You responded that
8 you are not an expert investigator and I can understand
9 that. You're the Administrator of the FBI. The
10 Attorney General is not an investigator either. When
11 you start to ask questions, you have to give Miranda
12 warnings, and you have custodial interrogations, you
13 have investigative techniques, preservation of
14 documents, sealings, a tremendous number of very complex
15 matters people only know when they're in it day in and
16 day out.

17 Where you had the information about the sale of
18 arms, why was there not a danger signal at all that this
19 was something that the FBI really ought to be involved
20 in?

21 JUDGE WEBSTER: I didn't see any danger signals at
22 the time. On the basis of the facts as I knew them, my
23 confidence that the Attorney General had reviewed the
24 legal predicate for the actions that were being taken
25 over there. He wasn't going over there to find out if a

1 crime had been committed. He was going over to find out
2 exactly what had happened. Who had authorized this.
3 Who had authorized that. He was going to talk to the
4 people. They were all making statements that it seemed
5 at times to be inconsistent. And inaccurate.

6 Certainly, I would not have felt that it was
7 necessary to take the FBI in there on the basis of a
8 customs management export-import control violation. My
9 assumptions were that if the Attorney General was a part
10 of the National Security Council, had reviewed the
11 Findings, had been brought into it, given an opportunity
12 to consider the legal aspects of what was taking place
13 over there, that that was what was important.

14 I just wanted to be sure they weren't off running
15 around without legal advice.

16 SENATOR SPECTER: Thank you very much, Judge
17 Webster. Thank you.

18 THE CHAIRMAN: Senator Hecht?

19 SENATOR HECHT: Thank you, Mr. Chairman. It's been
20 a hot afternoon, and before we get on with the security
21 questions, I'll go back to the x rated questions we were
22 on before, about brothel owner Joe Conforti and the
23 Judge Claiborne case and your handling of agents in the
24 FBI.

25 Brothel owner Joe Conforti was offered millions in

1 tax breaks to testify against Judge Clairborne. Was
2 that your call, Judge?

3 JUDGE WEBSTER: That was not my call and I don't
4 believe it to be true. But it was not my call.

5 SENATOR HECHT: That was not your call and you do
6 not believe it to be true?

7 JUDGE WEBSTER: And I am unaware of it today.

8 SENATOR HECHT: What do you know about allegations
9 that Mr. Yablonski directed --

10 JUDGE WEBSTER: Let me, if I may, correct the
11 record a little.

12 SENATOR HECHT: Yes.

13 JUDGE WEBSTER: I think there might have been some
14 suggestions of that kind of a basis for a plea bargain.
15 But it was not my call.

16 SENATOR HECHT: I will have to research that out.
17 And I will give you a prepared question on that.

18 My recollection at the time was in the newspaper
19 that he was given tax breaks.

20 JUDGE WEBSTER: He may very well have been. I was
21 listening to the amounts you were talking about and I
22 don't really know that to be true but it may be part of
23 the plea agreement. But it was not my call.

24 SENATOR HECHT: It was not your call. That's the
25 main point. Okay.

1 What do you know about allegations that Mr.
2 Yablonski directed a break-in at Judge Claiborne's home?
3 Did the FBI or Justice Department ever investigate those
4 allegations?

5 JUDGE WEBSTER: I believe those allegations were
6 investigated as part of an overall Office of
7 Professional Responsibility investigation following
8 various allegations of that kind that were made. We did
9 not authorize such a break-in. I do not, in fact, know
10 that such a break-in occurred.

11 SENATOR HECHT: What resulted from the
12 investigation of allegations Yablonski's wife was
13 intimidating local casinos into buying fresh shrimp from
14 a company she was associated with?

15 JUDGE WEBSTER: That investigation was -- there was
16 an investigation of that and it was concluded that it
17 was unfounded.

18 SENATOR HECHT: Was it not true though that Mr.
19 Yablonski's wife was in that business and did sell
20 shrimp to the hotels?

21 JUDGE WEBSTER: Yes, indeed. It was true. And
22 that's why we conducted the investigation.

23 SENATOR HECHT: But there was no implication that
24 she was using her husband's influence to do -- to get
25 this contract?

1 JUDGE WEBSTER: That was the result of the
2 investigation, Senator.

3 SENATOR HECHT: Were you aware that while Joseph
4 Yablonski was heading the Las Vegas field office, he
5 kept a forty thousand dollar bank error in his favor
6 until the bank found the mistake on its own three years
7 later, after the FBI official had left office?

8 Were you aware of that?

9 JUDGE WEBSTER: I was aware of it after he had left
10 office. I became aware of it after the matter surfaced,
11 but he was already retired at that time.

12 There was an investigation conducted. And, again,
13 no action was deemed indicated by the Department of
14 Justice.

15 SENATOR HECHT: Do you condone any of your FBI
16 field agents or future CIA agents engaging in these
17 types of activities?

18 JUDGE WEBSTER: Which types, Senator?

19 SENATOR HECHT: Keeping quiet of a forty thousand
20 dollar bank error.

21 JUDGE WEBSTER: No, I don't condone that.

22 His explanation was he was not aware of it, that
23 his wife was entirely in charge of the finances. If he
24 had knowingly kept it secret, I would not have condoned
25 it.

1 SENATOR HECHT: If that was by any other citizen,
2 would he have been prosecuted for that?

3 JUDGE WEBSTER: I don't know the answer to that.
4 That's a prosecutor's discretion, and I can't answer the
5 question. It would depend on the intent.

6 SENATOR HECHT: In October 1982, the head of the
7 Las Vegas FBI Office, Joseph Yablonski, apparently
8 attempted to derail Brian McKay's bid for Attorney
9 General. According to news media accounts, Mr.
10 Yablonski solicited the help of an intelligence
11 investigator at Nellis Air Force Base in an apparent
12 attempt to dig up the reported inflammatory information.

13 He also had someone check McKay's military central
14 files in St. Louis. I should like to point out that no
15 derogatory information was found and Brian McKay won the
16 election.

17 Judge Webster, would Mr. Yablonski activities not
18 constitute a violation of the Hatch Act which bars
19 federal officials from interfering in political races?

20 JUDGE WEBSTER: That matter was investigated by our
21 Office of Professional Responsibility. It was not found
22 that he was engaging in political activities. His
23 explanation was that he wanted to know more about Mr.
24 McKay who was about to come in to see him during the
25 election.

1 Since there was no evidence that he was engaging in
2 political activities, that matter stood as I have
3 described it. Mr. Yablonski was, however, disciplined
4 by me for what I consider to be extremely bad judgment
5 in utilizing the files of another agency to inquire
6 about Mr. McKay for a reason that I did not consider
7 adequate or sufficient.

8 SENATOR HECHT: So you would classify this as bad
9 judgment, not any type of a crime?

10 JUDGE WEBSTER: That's correct.

11 SENATOR HECHT: Were you aware of other prominent
12 Nevadans who were targeted for investigation by the FBI?

13 JUDGE WEBSTER: Again, I would like to say that --
14 it would be very sensitive to use that word targeting
15 because we target programs. We target organized crime.
16 We target scheme scams. We should not be targeting
17 individuals.

18 There were at various times individuals under
19 investigation in Las Vegas as there are all over the
20 United States. But they are based upon something we
21 believe they've done and not because we have some
22 interest in getting something on them.

23 SENATOR HECHT: There were newspaper reports, and I
24 just use the term newspaper reports, that certain heads
25 -- pictures were on Mr. Yablonski's walls and he would

1 throw darts at them and -- you know anything about
2 anything like that?

3 JUDGE WEBSTER: I really don't.

4 SENATOR HECHT: In your opinion, why has the Las
5 Vegas Sun been on such a vendetta -- and I'll just show
6 you a couple of headlines. " Hecht to Grill Webster on
7 Yablonski Vendetta," " Will Hecht Give Webster
8 Indigestion?" And one thing after another like this for
9 the last two years.

10 Why, in your opinion does the Las Vegas Sun take
11 this on in such a manner?

12 JUDGE WEBSTER: Well, I don't want to impugn the
13 motives of its editor. He was deeply involved in the
14 Conforti -- rather the Claiborne investigation. He had
15 strong views about it. He even tried to arrange a
16 meeting with a Senator at the White House to protest the
17 investigation.

18 Things get pretty heated out in Las Vegas as you
19 know, Senator. And it took a pretty strong SAC to stand
20 up to that.

21 So I'm not at all surprised that the feuding
22 continued as it did.

23 SENATOR HECHT: SAC? Give us the --

24 JUDGE WEBSTER: Special Agent in Charge.

25 SENATOR HECHT: I see.

1 So you have nothing in your mind that would have
2 triggered this?

3 JUDGE WEBSTER: Well I have something in my mind,
4 but I don't think I ought to say it.

5 (General Laughter.)

6 SENATOR HECHT: Well, why not?

7 SENATOR COHEN: And that's why he's a judge and
8 you're a Senator.

9 (General laughter.)

10 SENATOR HECHT: I nearly had him talking. Now shut
11 up.

12 (General Laughter.)

13 SENATOR HECHT: Would you care to proceed on that
14 or would you not?

15 JUDGE WEBSTER: I'd really rather not. I will if
16 you insist. But I'd really rather not.

17 SENATOR HECHT: Well, if it has any bearing on this
18 hearing I would ask you to. If you don't think it does
19 have any bearing, I cannot force you to.

20 JUDGE WEBSTER: I don't think it does, Senator.
21 Newspaper people form opinions, particularly if they own
22 the newspaper. And it's -- and you can have your
23 article on the front page. I really believe the editor
24 believes what he is writing, but he is out of line.

25 SENATOR HECHT: Thank you.

1 You have mentioned that Mr. Yablonski was guilty of
2 bad judgment numerous times. However, when he retired,
3 you have him a glowing recommendation. Is that not
4 correct?

5 JUDGE WEBSTER: I don't remember a glowing
6 recommendation. I remember writing him a letter of
7 appreciation for all that he had done for the Bureau.

8 SENATOR HECHT: I got one minute left and let me
9 ask you a question. I'll lead into the intelligence
10 area:

11 You chair the Government's highest level of
12 counterintelligence coordination group, and you are a
13 member of the Government's key defensive security
14 planning coordinating group. You were a respected
15 jurist. Based on your perspective from all three of
16 these areas, what is your analysis of our ability to
17 build an effective defensive security system? Is there
18 something wrong in government management or there
19 something inherent in our national political
20 philosophies and way of life which makes it impossible
21 for us to prevent these previous losses? Does our
22 tendency in the Congress to politicize these matters
23 have a bad impact?

24 JUDGE WEBSTER: I believe that we can develop
25 within the Intelligence Community a better system of

1 what we call countermeasures. That is not
2 counterintelligence, we can do better there too, but
3 countermeasures are systems for protecting our national
4 secrets which exist within the Community itself and
5 within those public contractors with whom -- private
6 contractors with whom the government must share its
7 secrets.

8 That is only half the equation. The other half of
9 the equation has to do with how we in government
10 publicly act about such things as leaking. Official
11 leaking is bound to reduce the level of concern about
12 private leaking and create a numbness among other
13 government employees about the importance of protecting
14 classified information.

15 So it starts at the top, in my opinion, if we are
16 going to ever change an attitude about protecting
17 secrets in government.

18 SENATOR HECHT: I thank you very much. Mr.
19 Chairman, will we have a chance at another time to
20 question Judge Webster on classified matters?

21 THE CHAIRMAN: Yes we will. We will definitely if
22 there are Members that have classified items -- and I'll
23 be happy to consult with you about that -- schedule a
24 time to do that. I anticipate that we will continue
25 public hearings as well tomorrow. We might conclude our

1 public hearing tomorrow afternoon with a closed session
2 at that time if there are any classified matters.

3 SENATOR HECHT: I will have some of those questions
4 for you in a classified context. Thank you very much,
5 Judge Webster.

6 THE CHAIRMAN: Let me ask, Judge Webster, what you
7 would do if you were faced with a situation -- a
8 hypothetical situation in which your own values were
9 violated either in terms of the covert action that was
10 undertaken or in terms of failure to notify Congress.

11 Looking back at the concrete situation, our most
12 recent experience, a very damaging situation that
13 developed with the Iranian arms transfer and the failure
14 to notify Congress for a period of some ten or eleven
15 months.

16 If you had been the Director of the Central
17 Intelligence Agency at the time that the Finding was
18 issued by the President for January, bearing in mind
19 consent to notify Congress was not given for several
20 months, what would you have done?

21 JUDGE WEBSTER: I would have to ask the Chairman to
22 understand that I am not possessed of all of the facts.
23 I only know --

24 THE CHAIRMAN: Just knowing what you have read in
25 the newspaper.

1 JUDGE WEBSTER: And in the Tower Commission Report.

2 THE CHAIRMAN: What would you have done?

3 JUDGE WEBSTER: I would have insisted on revisiting
4 the decision not to tell the Congress on a regular and
5 frequent basis. And at the first opportunity when I
6 felt that those reasons that were important to the
7 President at the time that he made the original order
8 were no longer as important as the need to preserve the
9 trust and confidence I would be coming down as hard as I
10 knew how to get the President to change his mind.

11 THE CHAIRMAN: Well in this specific situation, of
12 course, the President did not give authority for
13 notification. In fact, we were finally notified through
14 a newspaper in Beirut.

15 What would you have done?

16 Would you have remained as Director of Central
17 Intelligence Agency given this concrete situation? We
18 know exactly what occurred, we know from the Tower
19 Commission, from this Committee's report and from press
20 accounts. If you had been the Director of Central
21 Intelligence Agency, would you have continued to serve
22 in the Administration given the fact that approval to
23 notify Congress of this operation was not given?

24 JUDGE WEBSTER: I think, first, and I don't want to
25 evade your question because I'm trying to really be sure

1 that I know the answer to it what in my own mind what I
2 would do. I would have been arguing very strongly that
3 the use of Iranian nationals to assist in the release of
4 American hostages in Beirut in exchange for arms was an
5 ill-advised policy contrary to our stated public policy
6 and one which it was very important that Congress
7 understood and supported and if it did not understand
8 and support it, there was very little chance that it
9 would ever be so viewed by the American people as, as
10 the President said, making sense when it got on the
11 front pages of the newspaper.

12 It's a little difficult because there was an
13 important ongoing initiative which many people think had
14 some promise. Although others don't. And that is to
15 try to find a way to restore relationships with a
16 strategically important country when its hostile leader
17 should leave the scene which seems to be not in the too
18 far distant future.

19 That is a very sensitive type of thing. Any kind
20 of backchannel negotiation is very, very sensitive.

21 SENATOR COHEN: We understand Khomeini's
22 grandmother is still alive. I don't know what you've
23 based that on?

24 JUDGE WEBSTER: Well, I haven't been in that
25 situation. I explained earlier this morning, I've never

1 seen a Finding until I saw the ones in this case. So
2 I'm not sure exactly how much of that was explored.

3 THE CHAIRMAN: But again, surely having just sat
4 back, not even as Director of the Federal Bureau of
5 Investigation, but just an American citizen and now
6 you're reading the newspaper accounts. You would have
7 some feeling about now what would I have done if I'd
8 been sitting there as the Director of the Central
9 Intelligence Agency and I had argued against this policy
10 and I'd argued in favor of notifying Congress and I'd
11 been overruled month after month after month. Now
12 surely most of us can sit back and many of us perhaps
13 are arm chair quarterbacked too often. Most of us can
14 sit back and say if I were there I would have done such
15 and such.

16 Now, if you had been there, what would you have
17 done?

18 Would you have remained a part of the
19 Administration -- you talked this morning hypothetically
20 about well if I were confronted with the situation where
21 I felt it violated my standards or was just going too
22 far, I would have to leave. Or I would have to get out.
23 Or, I've forgotten the exact words, but you in essence
24 meant I would have to resign.

25 This isn't a hypothetical. It happened. If

1 William H. Webster, if we confirm you to this post. If
2 you had been sitting there as the Director of the
3 Central Intelligence Agency, during that period of time,
4 what would you have done?

5 JUDGE WEBSTER: I must tell you in all candor, I
6 would be asking -- one of the questions I'd be asking is
7 could this particular Committee keep that information
8 within the Committee? I don't -- I'm saying that
9 because I think it is a legitimate -- it influences your
10 decision in trying to balance the importance of it.

11 I think that I -- I'd like to think that I would
12 have prevailed on the President long ago --

13 THE CHAIRMAN: The Director did not -- the
14 President did not notify Congress. It's not
15 hypothetical -- given the operation that was ongoing,
16 given the fact that we were trading arms to terrorists,
17 and you said that disturbed you greatly. It was at
18 variance with our public policy. Would you have
19 remained a part of the Administration? I believe as
20 strongly as you do about the responsibility of this
21 Committee and others to keep secrets as you know. We
22 have battened down the hatches. I don't think from the
23 current Membership of this Committee, those currently a
24 Member of this Committee since January of this year, I
25 don't think we have had any information inappropriately

1 released. We don't even let it out of our space.

2 Documents or notes.

3 What would you have done?

4 JUDGE WEBSTER: If I can take that one as a given,
5 in that context, I would have insisted that there be
6 notification or I would have not been able to stay.

7 Now, at the exact point at which I would do, I'm
8 not -- today, I don't think I can pin that down, because
9 I don't know enough. But I'm confident during -- that
10 period was too long. And you should have been notified.

11 THE CHAIRMAN: At some time in that period after
12 you had attempted to change the notification policy or
13 the policy itself, you would have left. Is that
14 correct?

15 JUDGE WEBSTER: That's correct.

16 THE CHAIRMAN: Let me go back again to this logical
17 question that Senator Cohen raised. He said, and I must
18 confess the more I think about it the more difficulty I
19 have in understanding it. We have an investigation of
20 the Hasenfus matter. We have an investigation of
21 Southern Air Transport in terms of their operations in
22 Central America.

23 You have said that until November the 25th, that
24 you were like the rest of us in this country, you didn't
25 realize there was any connection, diversion of funds

1 from the Iranian arms sale to the Central American
2 activity.

3 What was it? If you could recreate for us, first
4 of all, who was it, how did this request first come to
5 your attention and what did the person say to you that
6 delivered the message -- on October the 30th - that they
7 wanted that investigation suspended or delayed for a
8 period of time?

9 JUDGE WEBSTER: I received a telephone call from
10 the Associate Attorney General. That's Stephen Trott.
11 He's the number three man in the Justice Department, and
12 he is the person in charge of all criminal activities in
13 the Justice Department.

14 THE CHAIRMAN: And he called you himself?

15 JUDGE WEBSTER: He called me himself.

16 And I'm referring now to my memorandum as I talk to
17 you because I used almost verbatim language.

18 He called me on the secure line. Said he was
19 calling at the request of the Attorney General. And he
20 said the Attorney General would like to suspend for ten
21 days any nonurgent work on the Southern Air Transport
22 Neutrality Act investigation. He said that there were
23 apparently some sensitive hostage negotiations going on
24 that could possibly be prejudiced.

25 He told me that he didn't -- that the Attorney

1 General did not want to do anything which would wreck
2 the investigation, but simply wanted to permit a good
3 climate for the negotiations to the extent possible.

4 And I said that I would check with our Criminal
5 Investigative Division and if there were no problems we
6 would go ahead and do it.

7 THE CHAIRMAN: Did you ask him anything else at
8 that point?

9 JUDGE WEBSTER: No, I did not ask him anything
10 else. I'm not sure that he knew anything else.

11 THE CHAIRMAN: Did you yourself wonder? In other
12 words, why is it that an investigation of something
13 going in Central America is related to the release of
14 hostages in --

15 JUDGE WEBSTER: He was referring to our activity at
16 the Southern Air Transport Company in Florida. And I
17 knew from the report from Mr. Revell that Colonel North
18 had told him that that airline had been used to help the
19 project in Iran.

20 THE CHAIRMAN: I understand. But even if Southern
21 Air was providing transportation, or had provided some
22 transportation for arms to Iran, why would the
23 investigation into Southern Air's involvement in Central
24 America, what kind of information and to whom could that
25 information -- in other words, if information continued

1 to be put into an FBI file by investigators about, well,
2 here's what Southern Air is doing in Central America,
3 how could that jeopardize the hostages? Logically?

4 JUDGE WEBSTER: My testimony on that this morning
5 was and is that this operation was so sensitive that
6 they -- everything had been done to minimize any
7 non-need-to know involvement. And it did everything
8 possible to operate in a covert manner and not have
9 people speculating when -- anytime -- I'm not trying to
10 put thoughts into the minds of the Attorney General or
11 even why -- I'm trying to explain why I didn't think it
12 was unusual. Anytime there is an FBI investigation,
13 people begin to focus on why is there an investigation.
14 We are -- we're there with numbers of people, and I am
15 sure that there was concern expressed somewhere to the
16 Attorney General which he felt was valid, and he passed
17 it through Mr. Trott to me.

18 I came at it looking at it from the standpoint of
19 is this request going to damage an ongoing
20 investigation? Not whether the Attorney General's
21 judgment on this ought to be questioned. But whether or
22 not the investigation he wanted us to suspend would be
23 hurt by such suspension. And so I passed that question
24 to our career people who said that it would not.

25 And since the Attorney General had asked for it,

1 had given a reason that I thought was reasonable, I
2 didn't second guess that and I don't now.

3 THE CHAIRMAN: Is it simply because the same firm,
4 Southern Air, was involved in Iranian arms
5 transportation and was under investigation in Central
6 America, is that the only logical -- I'm sort of puzzled
7 by why you didn't say to Mr. Trott, well what does that
8 have to do with the hostages? Or how on earth is there
9 any logical connection between suspending an
10 investigation of something going on in Central America
11 with whatever involvement these people may have had
12 elsewhere?

13 JUDGE WEBSTER: Mr. Chairman, I don't believe Mr.
14 Trott knew about the hostage negotiations. Only Mr.
15 Revell and I in the Bureau, only the Attorney General in
16 the Department, were aware of what the National Security
17 Council was doing.

18 THE CHAIRMAN: But you didn't ask him to call back
19 and say I'd like to talk to the Attorney General or know
20 why he --

21 JUDGE WEBSTER: No, because I talked to Mr. Clarke,
22 and he said it wouldn't affect our investigation.

23 THE CHAIRMAN: Wouldn't affect the investigation?
24 What about at the end of the ten day period? What
25 action did you take then in terms of reopening the

1 investigation at the end of the ten day period?

2 JUDGE WEBSTER: I called back to Mr. Trott and
3 said, "The ten days are up. Can we begin?" And he
4 said, "I don't know. I'll get back to you." He got
5 back to us on the 20th.

6 THE CHAIRMAN: And said it was all right to resume
7 the negotiations?

8 JUDGE WEBSTER: That's right. No restrictions.

9 THE CHAIRMAN: I want to go into the matter of the
10 Varelli situation, but I think our time is such that I
11 better not commence that.

12 Now, let me go on to Senator Cohen at this time.

13 SENATOR COHEN: Well, I think I should take umbrage
14 at one of the Chairman's last remarks. He said that I
15 asked a question, the logic of which could not escape
16 him. Part of that was that I asked questions of which
17 the logic does escape him --

18 THE CHAIRMAN: Let me correct the record. On this
19 instance, I understood the logic of the question but not
20 the logical connection between the two points being
21 raised.

22 SENATOR COHEN: We are trying to define exactly
23 what you see as the parameters for the timely
24 notification to the Congress. I think you made a
25 statement in response to Senator Boren that if the

1 reasons that the President originally offered for not
2 notifying Congress were no longer as important as they
3 were at the time, then you would give consideration at
4 that point to insisting that notice be given.

5 I have a difficulty with that because it is still
6 very broad. For example, there are two reasons that
7 were offered for not notifying Congress: number one,
8 this was a new strategic opening to Iran. That
9 strategic opening might take two years. In which case
10 Congress would never be notified during that two year
11 timeframe.

12 Secondly, there was what involved the primary
13 motivation, and that was the return of the hostages.
14 Every time a hostage was about to be returned, that
15 would be justification enough not to notify Congress.
16 So you have a program, theoretically, that could be
17 carried on even under your interpretation of timely
18 notice for as long as two years -- or eighteen months as
19 it was in this case. And you really suggest to this
20 Committee that that is your understanding of what timely
21 notice would constitute in the meaning of the law?

22 JUDGE WEBSTER: No, I think that this is one reason
23 why that this particular hypothetical, even though we
24 may know more about it than we do in other
25 hypotheticals, is not as simple as it sounds because

1 perhaps more justification could be made for a
2 diplomatic initiative over a sustained period of time
3 than for a hostage situation involving the exchange of
4 arms. And I don't really know that I know the answer to
5 that, but what I tried to say in terms of defining my
6 sense of timeliness -- because the statute doesn't do it
7 and I don't think can do it really -- is not just when
8 the reason was not as strong as it was in the beginning,
9 but when the corresponding need to keep the Congress
10 informed -- to have the support of the Congress through
11 the Intelligence Committees was more compelling than the
12 remaining reasons for keeping it secret.

13 SENATOR COHEN: Do you recall seeing Mr. Gates
14 testify before this Committee several weeks ago? Did
15 you have a chance to either watch or read about his
16 interpretation of timeliness?

17 JUDGE WEBSTER: I've only seen portions of Mr.
18 Gates' testimony, and I have read portions of it.

19 SENATOR COHEN: With respect to timeliness, I think
20 he indicated that forty-eight hours was about as timely
21 as one could get within the meaning of that
22 interpretation. That beyond that time, he would start
23 to be very concerned, and would feel compelled to notify
24 Congress.

25 JUDGE WEBSTER: I haven't any problem with that. I

1 think he said several days would be his view of the
2 outside.

3 SENATOR COHEN: So you would confine timely notice,
4 then, to within several days, as opposed to several
5 months or in some cases several years?

6 JUDGE WEBSTER: Well, I would try to relate it to
7 the particular situation. And as I said in my
8 testimony, I have trouble imagining any situation that
9 is so sensitive and life threatening that the Congress
10 cannot be advised of it.

11 But one thing, not only do I believe the act makes
12 it clear that you're entitled to be informed, but also,
13 I think, that any project that cannot survive
14 Congressional notification is suspect from the
15 beginning.

16 SENATOR COHEN: You also indicated that one other
17 test that you would apply would be that you would have
18 to know wheter Congress could keep that secret. That is
19 not a condition in the statute.

20 JUDGE WEBSTER: I realize that. And I appreciate
21 your bringing that to my attention. But there are no
22 conditions in the statute. It says that the President
23 should give his reasons why and that he should notify in
24 a timely way. And I was trying to leave room for things
25 that I have said I cannot even imagine that would --

1 where something was so tight that they couldn't come. I
2 can't -- I really -- I'm a lot in the situation I was
3 when I stood before the Committee -- Judiciary Committee
4 to be Director of the FBI. I'm trying to leave myself
5 room for the unknown. But I'm telling you that I don't
6 know any situations where you shouldn't be promptly
7 advised.

8 SENATOR COHEN: I share your concern about not
9 wanting to disclose information that might possibly be
10 leaked and jeopardize lives, and Senator Boren and the
11 rest of us who sit on this Committee are certainly
12 dedicated to that.

13 But that qualification is not part of the law, and
14 it's one of the things that ended in this entire Iran
15 affair where you have Ollie North, for example, saying
16 let's not tell Secretary Shultz. If you tell the
17 Secretary of State, that's the end of the program. And
18 let's not tell all of the other people, and soon you
19 have a private foreign policy being carried out without
20 anyone's notice or knowledge beyond a select group
21 within the White House. And that's a very dangerous
22 situation to --

23 JUDGE WEBSTER: I agree with that. And it's one of
24 the reasons of leaking at the Executive branch and
25 leaking elsewhere. It's such a concern to people. If

1 there was some history of rapid leaking, you can
2 appreciate how it could be for them.

3 SENATOR COHEN: I would suggest that if you have
4 concerns about the potential for leaks coming out of
5 this Committee or the House Committee, you ought to come
6 to the Committee and express those concerns.

7 JUDGE WEBSTER: I will. If I'm confirmed.

8 SENATOR COHEN: You also quoted William Stephenson
9 this morning and it was an excellent quote.

10 Stephenson also wrote that the enemy is not only at
11 our door, but inside our house -- and in practically
12 every room. I think Secretary Shultz has asked for the
13 creation of a Committee or Commission to investigate the
14 matter in Moscow. If it is determined that our Embassy
15 in Moscow is not fit for human habitation, and Mr. Orkin
16 can't fix it, would you recommend that the Soviets not
17 be allowed to occupy the residence that is attached to
18 the new Embassy on Mount Alto as well?

19 JUDGE WEBSTER: I would.

20 SENATOR COHEN: Is it your concern perhaps that
21 they could use the residency with equal or comparable
22 ability to detect microwave signals coming out of --

23 JUDGE WEBSTER: Well, I just believe that we have
24 to insist on a reciprocity and equivalency at every
25 level --

1 SENATOR COHEN: Are they occupying the residency
2 now?

3 JUDGE WEBSTER: There is some -- I'm informed that
4 they are in the apartments but there are no offices.

5 SENATOR COHEN: Your recommendation would be, if we
6 do not move into the new Embassy, that they not be
7 allowed to occupy the apartment side as well?

8 JUDGE WEBSTER: I think I'm getting out in front of
9 my self and my obligation to express that kind of view
10 first through the National Security Council. But I
11 think I have already indicated my perception.

12 SENATOR COHEN: Were you involved or at least aware
13 of any sting operation pertaining to weapons sales to
14 Iran in a case that emanated from New York?

15 JUDGE WEBSTER: Was I aware of --

16 SENATOR COHEN: Was the FBI the one who was running
17 a sting operation in New York? Was that the Department
18 of Justice?

19 JUDGE WEBSTER: In New York?

20 There have been a series of investigations to try
21 to find arm peddlers. I'm not sure whether you are
22 talking about that or the hostage situation. Which one
23 are you referring to?

24 SENATOR COHEN: The arms sales.

25 JUDGE WEBSTER: I'm informed that that particular

1 case is a Customs case and not ours.

2 SENATOR COHEN: Excuse me. As to covert
3 operations, would you support a sunset provision so that
4 all covert operations automatically terminate after a
5 specific period of time and would have to be
6 reauthorized and reviewed by you and others before they
7 could be continued?

8 In other words, you're stepping into a job in which
9 there are many covert operations that have been underway
10 for some time that you might not be fully familiar with,
11 and you will be stepping onto a moving treadmill rather
12 quickly.

13 Would you support a provision that would terminate
14 all covert operations periodically unless they are
15 reauthorized?

16 JUDGE WEBSTER: I'm not sure whether you are
17 proposing that each one be terminated after a particular
18 time or they all come up for a single sunset date.

19 SENATOR COHEN: Well, that they each have some
20 specified period of time over which they run. The time
21 frame at which would differ depending on when they were
22 initiated but, in other --

23 JUDGE WEBSTER: But that would require some
24 recertification?

25 SENATOR COHEN: A formal review by you and others

1 and by the Committee, as a matter of fact --

2 JUDGE WEBSTER: I would be very much surprised if
3 there isn't some internal procedure of that kind
4 already. There certainly should be.

5 SENATOR COHEN: No there is not. As a matter of
6 fact, Mr. Carlucci has only recently recommended that
7 that take place in order to avoid the kind of situation
8 where you may have an errant program under way of which
9 you are not fully apprised.

10 JUDGE WEBSTER: All of our undercover operations in
11 the FBI are subject to that kind of restraint -- of a
12 review.

13 SENATOR COHEN: Are you aware of any intelligence
14 activity that might be unlawful or contrary to an
15 Executive Order which has not been reported to the
16 Intelligence Oversight Board or to the Attorney General?

17 JUDGE WEBSTER: No, Senator.

18 SENATOR COHEN: Well, I have some other questions
19 dealing not only with the Varelli case, but also with
20 the Catholic Bishop. I think we are going over our
21 time.

22 THE CHAIRMAN: Senator Specter?

23 SENATOR SPECTER: Thank you, Mr. Chairman.

24 It's late in the day and I have some questions on
25 other topics too, Judge Webster, but let me turn to one

1 which you and I have discussed and I think have a
2 general area of agreement on. And that relates to the
3 FBI activities on ABSCAM which I think are important in
4 terms of setting a tone of fairness. Certainly the
5 Director of the FBI has a critical position in that
6 respect. And perhaps the Director of CIA is even in a
7 more critical position because even more secret items
8 are done with the CIA and necessarily with covert
9 activities.

10 You were nice enough to come and visit me before
11 these confirmation hearings began. And I had raised
12 with you a concern which I had about the necessity for
13 some reason to target an individual. You had referred
14 to it as a predicate. You might call it some basis for
15 some proceeding. And it might be said that if someone
16 is a public official, there is no justification of
17 taking a bribe under any circumstance and a strong case
18 can be made for that.

19 The rules which have been defined traditionally
20 require probable cause when there is a search and
21 seizure. Requires somewhat less when there is a stop
22 and frisk and those are variations talking about drug
23 testing and so forth now.

24 But in the course of the ABSCAM investigation,
25 there were at least some instances where individuals

1 were targeted for investigation. And they had some
2 notoriety because they were Members of Congress. One a
3 United States Senator, at least one Member of the House
4 of Representatives.

5 And I believe personally that the power to
6 investigate is a very great power. When I was District
7 Attorney of Philadelphia, I recollected it very well the
8 greater power, the prosecutorial powers or others
9 because you could investigate again secretly, and I
10 believe that there really has to be some predicate, some
11 reason to proceed.

12 And I would like your observations at the outset as
13 to your views as to what there ought to be before
14 someone is made subject for target for an investigation.

15 MR. WEBSTER. Senator Specter, I appreciate that
16 you noted that I use the word predication because I'm
17 trying to get law enforcement community to stop using
18 the word targeting when they're talking about people.
19 It's all right to target a program and find out what's
20 wrong whether it's labor racketeering or organized
21 crime. But when you begin to use the word targeting, it
22 gives the impression that you've decided ahead of time
23 that you are going to develop a criminal case against
24 someone.

25 The predicate is really a better word conceptually

1 because it means that we have some reason for opening an
2 investigation. That reasoning is not as strong as a
3 full probable cause requirement where we already have
4 the evidence, but it is at least some evidence that
5 gives us reason to believe that a person has been or
6 will engaged in crime.

7 I believe that that type of predicate, although it
8 is not in my opinion required in law, is the responsible
9 way for an investigative agency to proceed. We looked
10 at the observations of the Senate Select Committee which
11 reviewed the ABSCAM and other undercover operations at
12 great length, and we took those recommendations very
13 seriously.

14 At the time that we were in the midst of the
15 Graylord investigation, in Chicago, I think in my
16 opinion an even more important investigation and
17 certainly a sensitive a one because we were inside the
18 Cook County Judiciary investigating the judges in an
19 undercover capacity. And when the Senate came down with
20 this report, I asked that that report be laid alongside
21 our investigations in Chicago to see whether there was a
22 sufficient predicate as outlined in the Senate Select
23 Committee report for those ongoing investigations.

24 And then we took the additional step of having all
25 the files brought back to Washington because the Senate

1 Select Committee had recommended that these
2 investigations be reviewed at a higher level and they
3 were again reviewed for predication and returned.

4 And we have had dozens of convictions in Chicago in
5 that investigation. I believe only one judge has been
6 acquitted. It has rendered significant service to the
7 country and to that community. And I have not seen one
8 word in print criticizing the techniques used in the
9 Graylord investigation.

10 So, that's the difference between getting the
11 ABSCAM case off the ground in a very early seminal
12 long-term investigation and learning lessons and acting
13 on them for future investigations.

14 SENATOR SPECTER: Judge Webster, I'm not sure that
15 you are correct when you say that a predicate is not
16 required in the law. In preparation for this hearing, I
17 had some research done and we found no case where a
18 conviction was upheld or there was not some reason for
19 the investigation to be initiated. That is not to say
20 there is a square holding where the absence of a
21 predicate or some reason to proceed led to a reversal.
22 But it seems to me that as of this moment it may be more
23 of an open question and one which candidly might be
24 influenced by a statement by the Director of the FBI, a
25 former federal judge, at a Senate hearing.

1 The Senate Select Committee was top on the FBI in
2 one particular I would like to read it and see if you
3 agree with it or disagree with it in terms of the use of
4 some of the middlemen. You and I had not talked about
5 this. I have seen this since the meeting but I would
6 like -- your response to it. This appears in the Senate
7 Select Committee report on Page 19, quote, "In some
8 cases, the FBI relied on the representations of a
9 middleman, no record of reliability for producing
10 corrupt public officials. In some cases the FBI
11 continued to rely on middlemen, even after they had
12 proved to be unreliable in this regard. As a result,
13 the FBI's unduly unquestioning reliance on middlemen at
14 least one, apparently more, clearly innocent public
15 official was brought before the hidden cameras", end
16 quote.

17 Is that a fair statement, in your judgment?

18 JUDGE WEBSTER: I think it's a fair -- I think it's
19 a fair criticism. I think there was not a total absence
20 of predication. There was information. Where we are
21 today and our use of this important and sensitive
22 technique, we would not be as willing to rely on the
23 kind of middlemen representations as we did in ABSCAM.

24 That middleman term needs to be expanded. These
25 were individuals themselves under investigation who were

1 charged and went to prison. These were not cooperating
2 witnesses.

3 SENATOR SPECTER: Well, some of them like Silvestri
4 were not charged, were they?

5 JUDGE WEBSTER: Yes, Joseph Silvestri was charged,
6 was convicted, was fined fifteen thousand dollars, and
7 went to jail for three years on a sentence for three
8 years.

9 SENATOR SPECTER: And he was all that there was to
10 act against the United States Senator and a Congressman?

11 JUDGE WEBSTER: Well, he introduced -- he brought
12 Congressman Thompson into the picture. Congressman
13 Thompson was convicted and went to prison. He did also
14 bring a United States Senator to the undercover scene.
15 And that statement is correct.

16 SENATOR SPECTER: But the Senator walked out?

17 JUDGE WEBSTER: The Senator walked out.

18 SENATOR SPECTER: Without taking a bribe? Or
19 suggesting any willingness to take the bribe?

20 JUDGE WEBSTER: Nor was he offered a bribe.

21 SENATOR SPECTER: But he was moved in that
22 direction before he walked out?

23 He was moved in that direction by the questioning
24 and comments in the townhouse in Georgetown before he
25 walked out?

1 Was he not?

2 JUDGE WEBSTER: The Senator left the meeting
3 without having indicated that he was interested in
4 violating any criminal laws.

5 SENATOR SPECTER: Did you disagree with the Select
6 Committee's characterization of Silvestri when they said
7 on Page 72 of the report that, quote, "Joseph Silvestri
8 was the most unreliable of the ABSCAM middlemen",
9 unquote.

10 JUDGE WEBSTER: No, I don't think I disagree with
11 that.

12 SENATOR SPECTER: Now the time is running out,
13 Judge Webster, and I think it would be useful to see if
14 you agree with the specific standard. I think you have
15 already indicated that you have, but I think the future
16 proceedings, there would be some wait and some merit in
17 putting this on the record.

18 The Senate Select Committee articulated a number of
19 standards which they thought should be accomplished
20 through legislation. I believe that you said that you
21 adopted a standard which relates to predicate or
22 reasonable suspicion and I would ask if you agree with
23 this standard which appears at Page 28. This is one of
24 a number, but this is a relevant one here.

25 Quote, "No component of the Department of Justice

1 may initiate, maintain, expand, extend, or renew an
2 undercover operation except, sub a, when the operation
3 is intended to obtain information about an identified
4 individual or to result in an offer to an identified
5 individual of an opportunity to engage in a criminal act
6 on a finding that there is a reasonable suspicious based
7 on articulable facts that the individual has engaged, is
8 engaging, or is likely to engage in criminal activity",
9 close quote.

10 JUDGE WEBSTER: I have no problem with that. I
11 think that that's substantially what is implied in --
12 what's stated in our FBI undercover guidelines.

13 SENATOR SPECTER: A final question.

14 SENATOR COHEN: Would you yield for a moment?

15 Was that guideline applied to the Senator who was
16 invited to Georgetown?

17 As I recall, the FBI --

18 JUDGE WEBSTER: No, I don't -- I think probably
19 not. I think probably not. I would not -- you will
20 recall the circumstances, it was a short time frame
21 judgment. I made the judgment. I take the
22 responsibility. There were some in the Justice
23 Department who were of the opinion not to let him come.
24 Would have left open the fact that he was coming and we
25 wouldn't let him come. And he would, in fact, would

1 have been out there unexplained.

2 I still think we could have found -- I still and
3 now think that we could have found a better way to
4 handle that situation without alerting the middleman to
5 the fact that he was dealing with the FBI.

6 SENATOR SPECTER: So if you had that to do over,
7 you would not have brought that Senator in?

8 JUDGE WEBSTER: No. I would have wanted -- he was
9 a quick switch. I would have wanted to know more about
10 it.

11 We had an hour to make up our minds. I had put
12 protective provisions in place. One of them failed.
13 One of them succeeded. The one that succeeded was that
14 no money was to be offered until the Senator made a
15 criminal representation.

16 SENATOR SPECTER: And, in fact, you wrote him a
17 letter of exoneration?

18 JUDGE WEBSTER: I wrote him a letter that said that
19 when I made a statement on the air about only looking
20 for people who were willing to commit crimes that I was
21 not talking about him.

22 SENATOR SPECTER: A final question I have for you,
23 Judge Webster, is an inquiry which has been made by
24 Congresswoman Schroeder who wrote to you on March 13,
25 1987, and I tried to reach Congresswoman Schroeder

1 earlier today and was unable to do so.

2 But have you had a chance to respond to her
3 inquiry? She apparently was listed in an FBI book, or
4 maybe I should ask the question, was Congresswoman
5 Schroeder among others who were listed in an FBI
6 publication denominated El Salvador's terrorism?

7 JUDGE WEBSTER: It is not a publication, Senator,
8 it is -- it's what we call our FBI Terrorist Photo Album
9 which includes photographs and biographical data.

10 She was not in our album. She has never been in
11 our album. The form which was given to her, came in to
12 her possession and which she showed to me is bogus.
13 It's spurious, and I have written to her and told her
14 both that it is spurious and that she is not nor has she
15 ever been in our album.

16 SENATOR SPECTER: So you have had an opportunity
17 and have responded to her letter of March 13, 1987?

18 JUDGE WEBSTER: She has some additional questions.
19 I think, perhaps in another letter that we are trying to
20 get the answers to. But I had a hand search made of our
21 file so that I could give her unequivocal answer on that
22 point.

23 SENATOR SPECTER: Thank you very much, Judge
24 Webster.

25 Thank you, Mr. Chairman.

1 THE CHAIRMAN: Let me just ask one brief comment on
2 that.

3 Congresswoman Schroeder is not under investigation
4 by the FBI?

5 JUDGE WEBSTER: Absolutely not. And as I explained
6 to her in my letter, the photo album only contains
7 people who are subject to full scale -- to full field
8 investigation.

9 THE CHAIRMAN: Well, tomorrow we will have an
10 opportunity to go into some of these other matters. I
11 had hoped we might be able to finish today, but I am
12 informed that there are enough questions that Members of
13 the Committee want to continue to ask in open session.

14 This room is in use from noon until two o'clock
15 tomorrow. Then it will take them sometime to put it
16 back into order for us to resume our hearings tomorrow
17 afternoon. So we will not be able to resume until
18 approximately three o'clock tomorrow afternoon in this
19 room.

20 At the end of that period, I will consult with the
21 Members of the Committee to see if there are any other
22 questions that need to be raised in executive session or
23 in closed session. If so, we would take those up right
24 at the end of that period.

25 I think it would be best to break at this point.

1 We have questioned you about every possible matter and
2 it is certainly not our position to test your physical
3 endurance in addition to the ordeal that we put you
4 through today.

5 As I said at the outset, I know that you understand
6 that all of these questions are offered in the spirit of
7 meeting our own responsibility and not from the point of
8 view of expressing any hostility toward you personally
9 or toward your qualifications for office. We are in a
10 situation in which the sensitivity of this particular
11 position is one of great importance. I think you
12 understand that from the circumstances in which you
13 are nominated to the responsibilities of the DCI, this
14 Committee feels a very high degree of responsibility to
15 the Senate and to the country to explore every possible
16 avenue and ask every question that needs to be asked.
17 We appreciate your responsiveness to our questions today
18 very much and I know that you will look forward to being
19 with us again tomorrow.

20 We will resume at three o'clock tomorrow afternoon.

21 The Committee will stand in recess until that time.

22 (Whereupon, at 4:31 o'clock p.m., the Committee was
23 recessed to reconvene at 3:00 o'clock p.m., Wednesday,
24 April 9, 1987.)
25

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25