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Reagan says aides can take the 5th

In Congress, plans for 2 special panels

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WASHINGTON — President Reagan yesterday defended the right of his former aides to invoke the Fifth Amendment against self-incrimination in the Iran arms-contra aid case, despite his earlier assertions that they should cooperate with congressional investigators.

The President also said he would not stand in the way of any cabinet officers called to testify if they, too, decided to invoke their constitutional right not to answer questions.

Speaking to reporters during a photo session with Costa Rican President Oscar Arias, Reagan said he had not "given any thought" to claiming executive privilege to prevent cabinet secretaries from testifying.

He defended the action taken by former national security adviser John M. Poindexter and his aide, Lt. Col. Oliver L. North, in exercising their constitutional rights not to incriminate themselves, saying, "It is not new or unusual — it's happened many times before — that when there is going to be an independent counsel starting an investigation, that individuals that have no access to files or papers or time for preparation for questions, have done just exactly the same thing, so that they then can be witnesses for the investigation."

Asked whether he would instruct cabinet officials not to take the Fifth, Reagan replied, "The individual will have to make that decision for themselves, just as [North and Poindexter] have, as to what they feel their situation is with regard to the [case]."

The President's comments came as House and Senate leaders moved to establish special Watergate-style select committees to investigate the allegations, starting early next year.

Incoming Senate Majority Leader Robert C. Byrd (D., W.Va.) and Republican leader Robert Dole of Kansas announced they would name a select, 11-member committee of six Democrats and five Republicans, with two other senators — one from

each party — serving as nonvoting ex officio members.

In the House, Democratic leader Jim Wright of Texas and Republican leader Robert H. Michel of Illinois said they were forming a 15-member "blue-ribbon panel," including the Democratic chairmen of five standing committees, to coordinate the House investigation.

Both leaders said committee members would be appointed no later than Dec. 15.

Dole said Reagan would decide today whether to call Congress back into session to get the investigations moving, a plan that he supports but that Byrd, Wright and Michel oppose.

Meanwhile, Sen. David Durenberger (R., Minn.), chairman of the Select Committee on Intelligence, said aides of his committee had been dispatched around the country to subpoena additional documents and witnesses for the widening investigation.

"My impression is that when a case like this comes up, everybody reaches for the shredder or the manure pile or something," said Durenberger, adding that the committee summonses were "just judicious behavior to nail down" documents.

He refused to disclose which individuals or companies had been subpoenaed. But an attorney for Maule Aircraft Corp. of Moultrie, Ga., said the committee had subpoenaed records on four airplanes, including one reportedly sold to Nicaraguan rebels by a firm headed by retired Air Force Maj. Gen. Richard V. Secord.

Secord has been linked to a covert arms airlift to the contras that may have been funded by profits from the Iranian arms sales. He has said his company-owned Maule was sold to the contras last year for \$49,000.

Durenberger also reiterated the committee's intention to call "cabinet members" — including White House chief of staff Donald T. Regan — to testify.

Told of Reagan's comments about invoking the Fifth Amendment, Durenberger said, "The only problem it would cause with me is with the President's credibility. . . . The President promised that everyone was going to be very open on this."

The committee is probing reports that North engineered — with Poindexter's knowledge — the diversion of as much as \$30 million to Nicaraguan rebels from the sale of U.S. arms to Iran. At the time of the diversion, Congress had expressly banned American military assistance to the rebels, known as contras.

Durenberger spoke to reporters as the panel heard closed-door testimony from Robert Gates, deputy director of the CIA. Durenberger said that Gates did not plead the Fifth Amendment.

Gates, at confirmation hearings before the intelligence panel in April, defended the administration's increased use of covert operations.

Gates said at the time he believed that covert action was "an appropriate instrument of foreign policy as long as it is taken within a broader context." He said that decisions on commencing a covert program were made by the National Security Council, with the CIA only implementing the decisions.

Since that time, administration officials have acknowledged that the NSC had become deeply involved in implementing covert operations as well as creating them.

At the White House, Reagan's newly named national security adviser, Frank C. Carlucci 3d, who will officially take office Jan. 1, told reporters he would not shrink from offering the President his own advice on foreign policy as well as passing along the counsel of others involved with national security.

Referring to the furor over the Iran-contra case, Carlucci also said he would "make sure that all the appropriate statutes and checks and balances are implemented faithfully" in carrying out Reagan's policies.

The President has maintained that, while he had directed his NSC aides to sell arms to Iran after approving an order to do so in January, he had not approved the scheme to siphon money from the sales to the contras.

Meanwhile, Rep. Dante B. Fascell (D., Fla.), chairman of the House Foreign Affairs Committee, said he would attempt to subpoena Regan to testify next week — a move that could touch off a confrontation between the President and Congress. The President could invoke executive privilege to protect his closest White House adviser.

Regan has denied any knowledge of the diversion of funds from the Iranian arms sales to the contras.

House sources said yesterday that Fascell would summon CIA Director William J. Casey and former national security adviser Robert C. McFarlane to testify next week. McFarlane, who left his White House post a year ago, traveled to Iran in May at Reagan's request in an effort to open lines of communication with "moderate" government officials there.

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The hearing will begin Monday with unsworn testimony from Secretary of State George P. Shultz. McFarlane will testify in the afternoon, followed by Poindexter on Tuesday morning and Casey on Wednesday.

Aaron Epstein, William Arthur and Ken Cooper of The Inquirer's Washington Bureau contributed to this article.