

and, on one occasion, resulted in a formal change to the existing oversight arrangements.

In April 1984, it came to light in a press article that pursuant to a previously approved presidential finding and express authorization from the White House, the Agency had been involved in mining the principal harbors in Nicaragua in an effort to curtail commerce and pressure the Sandinista regime.

While Casey contended afterwards that both intelligence committees had been informed of these activities, the leadership of the Senate committee at the time, Senators Goldwater and Daniel Moynihan (D-NY), respectively, insisted they had not. If Casey had mentioned it, they contended, he had not called sufficient attention to it. In the end, Casey provided a grudging apology and agreed that henceforth he would more clearly spell out what the Agency was doing pursuant to an approved covert action finding. This commitment, which Reagan agreed to, was reduced to writing and became known as the “Casey Accords.” It provided, among other things, that covert action findings would be accompanied by “scope papers” that would elaborate on the precise activities contemplated by the finding and include a risk/gain assessment of each such activity. In addition, when new activities were contemplated pursuant to an approved finding that might be politically sensitive or otherwise had gone to the president for an approval, the committees would be informed.²⁰

Term Limits as an Issue for the SSCI: 1984

Since the resolution creating the SSCI in 1976 provided that its members had to leave the committee after eight years, when that deadline arrived in 1984, Senator Goldwater became concerned that nine or 10 of its members, including himself, would be forced to leave at the same time, having “far-reaching, negative consequences for Senate oversight of the Intelligence Community.”²¹ Goldwater communicated these concerns to a special Senate committee that had been established to study the Senate committee system, arguing that membership on the oversight committee required far more sophistication and knowledge than “we dreamed when we wrote Senate Resolution 400.” But Goldwater could not get a consensus on this issue from his own committee and, in the absence of its backing, chose not to pursue the matter further.²²

²⁰ CIA draft study, Vol. III, 65; Woodward, *Veil*, 358–59; Smist, *Congress Oversees*, 122–23.

²¹ CIA draft study, Vol. III, 72.

²² *Ibid.*, 72–73.

the 1970s, he had been practicing law. He and Goldwater were both hard-line anticommunists intent on rebuilding the military and intelligence communities, which they believed had suffered during the Carter years. But from the start, relations between them were strained. A few months after the Senate confirmed Casey, information came to light that he had withheld relevant information during the confirmation process. Goldwater investigated. Then came the appointment of Casey's crony, Max Hugel, as the DDO. Goldwater was outraged, and Hugel was later forced to resign.

Casey knew he was obliged to deal with the oversight committees, not only because the law required it, but because there were things he wanted from the Congress, such as funding and legislation. But he never liked this part of his duties, seeing the committees as obstacles to the president's ability to carry out his responsibilities as commander-in-chief and principal arbiter of US foreign policy. While he paid lip service to the oversight process, he came across as less than candid in his dealings with the committees. As one member later put it, "Casey treated us like mushrooms. He kept us in the dark and fed us manure."⁵⁰ Others complained they had to pull information from Casey. "He wouldn't tell you if your coat was on fire," one later commented, "if you didn't ask him."⁵¹ Even when Casey did respond to members' questions, his answer often came in the form of an infuriating mumble, deepening their impression that he was trying to keep them in the dark. Below the surface, many perceived contempt, both for themselves and their respective institutions.

Goldwater, nevertheless, sought to work with Casey, in particular when it came to their shared concern that communist regimes were getting footholds in several Central American countries. When the HPSCI became disillusioned with the covert action program supporting the contras in Nicaragua during the early 1980s it had been Goldwater who took up the administration's cause and sought to moderate the cuts made to the program.

In April 1984, however, it came to light that the Agency had, as part of its covert operation in the country, mined the harbors of certain Nicaraguan ports in order to create economic problems for the Sandinista regime. Goldwater regarded this as an act of war and was outraged that Casey had not notified the committee before undertaking it. In fact, as the record showed, Casey had mentioned it in testimony before the committee but no one picked up on what he had said. In all probability, no one had understood it. In any event, as far as Goldwater was concerned, notice to the committee had been insufficient. Casey was forced to make an official apology and agreed to notify the com-

⁵⁰ CIA draft study, Vol. III, 54–55.

⁵¹ Smist, *Congress Oversees*, 214.

Notwithstanding the growing chorus of doubt both in Congress and in the press, the administration continued to assert that it was complying with the Boland Amendment: it was not trying to overthrow the government of Nicaragua. Addressing a joint session of Congress on 27 April 1983, Reagan said,

*Our interest is to ensure that [the Nicaraguan government] does not infect its neighbors through the export of subversion and violence. Our purpose . . . is to prevent the flow of arms to El Salvador, Honduras, Guatemala, and Costa Rica.*⁹⁷

Both intelligence committees reacted to the speech, albeit in different ways. The HPSCI approved legislation cutting off covert assistance for “support of military and paramilitary activities in Nicaragua,” but approved \$80 million for Central American governments to interdict the flow of arms to rebel groups operating in their respective countries. Despite the administration’s efforts, it passed the House on 28 July 1983 by a vote of 228 to 195.⁹⁸ The SSCI, with a Republican majority and more inclined to support the administration, wanted a clearer statement of the program’s objectives before it would vote for more covert assistance—that is, it wanted a new finding. Reagan issued one on 19 September 1983, after he had discussed it with SSCI Chairman Goldwater and other key senators on the committee.

Under the new finding, the administration agreed that Agency personnel would not be involved in paramilitary activities themselves; rather they would channel assistance to third-country nationals. The primary objective remained the interdiction of Nicaraguan and Cuban support for regional insurgencies, but the overthrow of the Sandinista regime was not mentioned and a new objective—bringing the Sandinistas into meaningful negotiations and treaties with neighboring countries—was added. On the basis of this new finding and the assurances Casey provided, the SSCI voted to continue the covert action program in Nicaragua. Later, in conference on the FY 1984 Intelligence Authorization Bill, the two committees reached a compromise: a cap of \$24 million was placed on contra funding and the Agency was prohibited from using its Contingency Reserve Fund to make up any shortfall during the coming year. In other words, if the program required more money, the administration would have to return to Congress to obtain it.⁹⁹

In the early part of 1984, recognizing that its prospects for obtaining future funding from the Congress were uncertain, the administration directed the Agency to intensify its paramilitary operations against the Sandinista regime

⁹⁷ US Congress, *Report of the Committees Investigating the Iran-Contra Affair*, 33.

⁹⁸ *Ibid.*, 34.

⁹⁹ *Ibid.*, 35.

in order to bring the situation in Nicaragua to a head.¹⁰⁰ New, more violent attacks were instigated, including the placing of mines in Nicaraguan harbors in an effort to limit or halt shipping into those ports. At the same time, because of these intensified efforts, it was clear the \$24 million congressional cap would be reached in a matter of months.

On 6 April 1984, just as the Senate was taking up the administration's request to increase the funding for the Nicaraguan program, the *Wall Street Journal* published an article claiming the CIA was behind the mining of certain Nicaraguan harbors. SSCI Chairman Goldwater, who was caught by surprise by the allegation, fired off a blistering letter to Casey saying he was "pissed off" at Casey's failure to keep him informed. "This is no way to run a railroad," Goldwater concluded.¹⁰¹

Four days after the article appeared, the Senate voted 84–12 to condemn the mining, and Goldwater took the floor to denounce the Agency for its failure to keep the committee "fully and currently informed" of its activities, as the law required. Casey initially took issue with Goldwater, pointing out not only that he had mentioned the mining on two occasions during committee hearings but also that he had briefed a member of the committee separately. This did not, however, satisfy the committee, most of whose members saw the mining as a virtual act of war, and as such, something that required far greater highlighting or emphasis to the committee.

To make matters worse, Casey reportedly asked SSCI Vice Chairman Moynihan "what the problem was" with Goldwater: why he was making such a fuss? Moynihan reacted two days later on a Sunday morning talk show by dramatically resigning his committee post, claiming the Agency had undertaken a disinformation campaign to discredit Goldwater.¹⁰² This prompted Casey to offer a formal apology to the committee, conceding that, under the circumstances, notification had been inadequate. While Moynihan agreed to return to the committee, Goldwater's anger still simmered. In late May, he sent Casey a copy of the 1980 oversight legislation, underlining himself the obligation of intelligence agencies to keep the committees fully and currently informed. "I can't emphasize too strongly the necessity of your complying with this law," Goldwater wrote. "Incomplete briefings or even a hint of dishonest briefings can cause you a lot of trouble."¹⁰³

As a result of the harbor mining episode, Casey and the SSCI agreed to new oversight arrangements (see chapter 2). The more immediate effect, however,

¹⁰⁰ Ibid., 36.

¹⁰¹ CIA draft study, Vol. III, 60–61.

¹⁰² Woodward, *Veil*, 332–34.

¹⁰³ CIA draft study, Vol. III, 63.

was to diminish the likelihood that the administration would get additional funding for the contra program. Indeed, in August 1984, the House approved another amendment offered by HPSCI Chairman Boland (which became known as “Boland II”) to an omnibus appropriation bill. It prohibited the use of funds by CIA, DoD, “or any other agency or entity engaged in intelligence activities . . . for the purpose or which would have the effect” of supporting the contras, directly or indirectly. The Senate agreed to the amendment and President Reagan signed it into law on 12 October 1984.¹⁰⁴

Three days later, the *New York Times* ran an article accusing CIA of producing an “assassination manual” for the contras. At issue were two manuals used by the contras: one providing instruction on various forms of sabotage; the other, calling for a popular uprising against the Sandinistas and the “neutralization” of certain Nicaraguan officials. Both intelligence committees demanded to know what CIA’s role had been in the production of these manuals. The HPSCI went further and opened a formal investigation. Casey acknowledged Agency personnel had been involved in the production of the manuals, but disputed the allegation that they were intended to provoke violence or that the reference to “neutralization” should be read as “assassination.”¹⁰⁵ In the end, the HPSCI concluded that there had been no intent by the Agency to violate the assassination prohibition in Executive Order 12333 but that its efforts to oversee the production of the manual were lax and insensitive to the issues involved. The manuals were “stupid,” the committee wrote, “not evil.”¹⁰⁶

With US funding for the contras having run out in May 1984—and officially shut off by Boland II in October—the Reagan administration returned to Congress in April 1985 seeking to reestablish the program, including the provision of lethal assistance if the Sandinistas refused to participate in negotiating a peace settlement. While the SSCI was amenable, the HPSCI was not. The full House voted down the proposal on 23 April.

After the vote, Reagan imposed new economic sanctions against Nicaragua and vowed that he would return to Congress “again and again” to obtain funding for the contras. In fact, within two months’ time, attitudes in Congress began to shift. Sandinista leader Daniel Ortega had traveled to Moscow and throughout Europe seeking military aid and had thereby stirred members’ fears of a formidable communist presence in the Americas. On 12 June 1985, the House passed a bill providing \$27 million in humanitarian aid for the contras. The Senate concurred, and the president signed the measure into law on 16 September. The new law prohibited CIA from playing any role in provid-

¹⁰⁴ US Congress, *Report of the Committees Investigating the Iran-Contra Affair*, 41.

¹⁰⁵ CIA draft study, Vol. III, 68.

¹⁰⁶ *Ibid.*