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### **Three Crises of Character in the Modern Presidency**

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Three major crises of confidence have shaken the modern presidency—Watergate, Iran-Contra, and President Clinton’s impeachment—each of them was caused not by external threats but by presidential decisions. Each of them led to serious consideration of impeachment and removal of the president from office: Nixon resigned in the face of virtually certain impeachment, Reagan saved himself by getting the truth out, and Clinton was impeached though not removed from office.<sup>1</sup>

These crises were rooted in the character of the presidents involved. Watergate was based in Richard Nixon’s resentment of his political “enemies” and his paranoia about how they were thwarting him. He was willing to use illegal tactics in order to get back at his political enemies, and he was willing to lie to cover up the illegal actions. The diversion of funds to the Contras was allowed to happen because President Reagan either did not care or did not bother to find out what his subordinates were doing in his name. Bill Clinton was impeached because he was willing to risk an illicit relationship and was unwilling to take responsibility for his behavior. He was willing to lie about it and encourage others to lie for him. Each of the cases will be examined from the perspective of the president’s motives, what happened in the crisis, and its consequences. The three cases will then be compared with respect to the key presidential decisions, the ironies of the outcomes, the personal culpability of each president, and finally the relative threats to the Constitution and the polity presented by the crises. The conclusion will be that each of the three presidents was guilty of serious missteps, but that President Reagan handled his crisis better by taking serious steps to get the truth out and that President Clinton’s transgressions did not present as serious a threat to the Constitution as the other two crises.

### **Watergate**

#### **President Nixon’s Motives**

The deeper roots of Watergate can be found in Richard Nixon’s early resentment against those who grew up in privileged circumstances and did not have to work as hard as he did to achieve success. In Nixon’s mind those of privilege became associated with people who thwarted him in

his career in politics and included the “Eastern establishment elite,” intellectuals in general (especially from Harvard and the Ivy League), and the media (especially *The New York Times* and *Washington Post*). President Nixon’s resentment also focused on the Democratic political party, the Democratically controlled Congress, “the bureaucracy” of career civil servants, think tanks (especially the Brookings Institution), antiwar protesters, and civil rights activists.

Although Nixon was paranoid (in the nontechnical sense of the word) in that he attributed to his “enemies” powers greater than they had and saw threats greater than existed,; he did in fact have political enemies. Certainly the Democrats wanted to embarrass him and see him defeated; certainly those who disagreed with his policies wanted to thwart him.<sup>2</sup> But that is the nature of politics, and in a democracy fights over policy and political power are appropriate and necessary. But in Nixon’s mind the distinction between the loyal opposition and enemies of the state blurred, and he thus felt justified in using the power of the government to “screw our enemies” (in John Dean’s terms). Nixon justified his action by arguing that Democratic presidents had used various unethical means to their political advantage. But the scale, scope, and means of Nixon’s abuse of power were much broader than those of any of his predecessors.

## **What Happened**

One key turning point came early in his administration when Daniel Ellsberg, a former defense analyst, leaked to the media a lengthy internal analysis of early U.S. policy toward Vietnam. The collection of documents became known as the “Pentagon Papers” and were all concerned with policymaking before Nixon became president. Nixon decided that the release of the documents was an unacceptable breach of security and ordered his aides to do something about it. In 1969 he told John Ehrlichman to establish “a little group right here in the White House. Have them get off their tails and find out what’s going on and figure out how to stop it.”<sup>3</sup> This “little group” became the “Plumbers” who would figure out how to stop leaks and carry out other tasks of political intelligence and sabotage.

In order to discredit Daniel Ellsberg, Nixon operatives broke into the office of his psychiatrist in Los Angeles. Though they did not find anything useful, their intention probably was to find and release embarrassing information about Ellsberg in order to affect his trial for violating security regulations. Breaking and entering is, of course, a crime; and this attempt to deprive Ellsberg of his civil rights was included in Article II of the House Judiciary Committee impeachment charges. Nixon also encouraged breaking into the Brookings Institution to seize documents of those he thought were working on the Pentagon Papers.

The Plumbers, who were funded from campaign funds and through the Committee to Reelect the President (CREEP), were to undertake a number of political intelligence operations, including the bugging of the office of Larry O’Brien at the Democratic National Headquarters in the Watergate Building. The National Headquarters of political parties are not the most likely places to find valuable political intelligence, and the Nixon people probably were more interested in finding an illegitimate connection between Larry O’Brien and Howard Hughes. After the election in 1968, Nixon had received an illegal campaign contribution from Howard Hughes. But at the same time Hughes also paid Larry O’Brien on a retainer. Thus information about the O’Brien-Hughes connection could be used to counter any Democratic disclosure or condemnation of the Nixon-Hughes connection.<sup>4</sup>

On the night of June 17, 1972, five of the Plumbers, under the direction of Howard Hunt and

Gordon Liddy, broke into DNC headquarters in the Watergate building to repair a listening device they had previously set. After they were discovered and arrested, the trail led back to CREEP and the White House. The cover-up of this break-in was what eventually brought down President Nixon.

In addition to these events, the Nixon White House and reelection campaign undertook a number of other measures that are broadly covered under the rubric of Watergate. Among these were “dirty tricks” to affect the 1972 Democratic primary elections. Since Nixon judged that Senator Edmund Muskie would be his strongest opponent, his operatives tried to undermine Muskie’s campaign by disrupting campaign rallies, forging letters, and financing his opponents.<sup>5</sup> White House officials tried to get the IRS to undertake audits on Democratic opponents and their supporters. A plan for political intelligence and operations, the “Huston Plan,” was approved by Nixon but never implemented.<sup>6</sup> Nixon’s counsel, John Dean, and others drew up lists of political “enemies” who were to be targets of political retaliation.

Among all of these illicit activities, what eventually brought down President Nixon was his involvement with the cover-up of the crimes. Nixon never seemed to consider seriously the possibility of denouncing the break-in and promising that the White House would not conduct any such activities in the future. Nixon’s lawyer, Leonard Garment, recalled:

The transition from bungled break-in to cover-up took place automatically, without discussion, debate, or even the whisper of gears shifting, because the president was personally involved, if not in the Watergate break-in then by authorizing prior Colson and plumber activities like the Ellsberg break-in and a crazy Colson plot to firebomb the Brookings Institution in order to recover a set of the Pentagon Papers. These were potentially more lethal than Watergate. Other factors contributed to the cover-up, but I have no doubt that the main motive was Nixon’s sense of personal jeopardy. His decision was not irrational, though it turned out terribly wrong.<sup>7</sup>

In retrospect, Nixon argued that the actions of Watergate participants themselves were minor, but the cover-up was his big mistake.<sup>8</sup> But he was wrong; the illegal activities, including breaking and entering, conducted by a secret White House intelligence unit were serious abuses of power. This is why Nixon felt that the Watergate break-in had to be concealed at all costs. A thorough investigation of Watergate would have opened up the whole “can of worms” that included the other illegal abuses of power in the Nixon White House. And that, in fact, is what did happen to the Nixon administration.

## **The Consequences**

When the Watergate burglars were arrested, they did not admit that they were working for Nixon’s reelection campaign because they had been assured by Gordon Liddy that they would be taken care of and their prison sentences would be minor if it came to that. But Judge “Maximum John” Sirica gave them long prison sentences because he suspected that their silence was protecting their superiors. This led to John Dean’s discussion with the president about hush money for the jailed plumbers. Dean told the president that it might cost \$1 million to keep them quiet. Nixon replied: “We could get that. On the money, if you need the money you could get

that. You could get a million dollars. You could get it in cash. I know where it could be gotten.”<sup>9</sup> John Dean testified that \$500,000 did go to Liddy and his men.<sup>10</sup>

The Senate Watergate Committee investigated many aspects of the White House activities and found out that President Nixon had set up a taping system in the White House. The tapes were subpoenaed by the special prosecutor and the House Impeachment Committee. Nixon sent to the committee transcripts of the tapes, but they had been altered in key places. Finally, the Supreme Court ruled that Nixon could not withhold the evidence on the tapes. The turning point in the House came when the “smoking gun” tape was discovered. Until that time, many Republican members of the Committee had argued that the evidence against Nixon was not conclusive and that impeachment was so serious a step that only conclusive proof of a crime was sufficient to vote in favor of impeachment.

In the tape of a conversation on June 23, 1972, just five days after the Watergate break-in, H. R. Haldeman told the president that FBI investigators were tracing the money carried by the Watergate burglars and were about to discover that it had come from CREEP and White House safes. He suggested that the way to stop the FBI investigation would be to have the CIA tell the FBI that further investigations would jeopardize CIA operations and they should drop the money trail. Haldeman suggested that “the way to handle this now is for us to have Walters [of the CIA] call Pat Gray [Director of the FBI] and just say, ‘Stay the hell out of this . . . this is ah, business here we don’t want you to go any further on it’.” After this suggestion, Nixon told Haldeman to tell CIA director Richard Helms that, “the president believes that it is going to open the whole Bay of Pigs thing up again. And . . . that they [the CIA] should call the FBI in and [unintelligible] don’t go any further into this case period!”<sup>11</sup>

The release of the tapes and their damning evidence provided the final impetus for the House Judiciary Committee to vote articles of impeachment. Article I charged the president with failure to fulfill his oath of office and obstruction of justice. It mentioned specifically the break-in of Ellsberg’s psychiatrist’s office, misuse of the CIA to obstruct the Justice Department investigation, withholding evidence, and counseling perjury, among other things. Article II charged the president with failing to faithfully execute the laws by using the IRS to harass his political opponents, by using the FBI to place unlawful wiretaps on citizens, by maintaining a secret investigative unit in the White House paid for by campaign funds, and by impeding criminal investigations, among other things. Article III charged the president with refusing to honor congressional subpoenas lawfully issued by the House Judiciary Committee and impeding the Congress from constitutionally exercising its impeachment powers.

Two other articles were debated by the committee but rejected. One of the articles would have charged that the president, through the secret bombing of Cambodia during the Vietnam War, undermined the constitutional powers of Congress. The other article would have charged the president with income tax evasion when he backdated his report of the gift of his vice presidential papers to the national archives.<sup>12</sup> But before the articles could be represented to the full House for action, President Nixon resigned and left office on August 9, 1974.

## **Iran-Contra**

### **President Reagan’s Motives**

President Reagan did not suffer from the resentment of “the establishment” that had characterized Richard Nixon, nor did he have a similar hatred of his political enemies; he was not paranoid about his political enemies nor did he seek their destruction. His own motives and personal predispositions, however, did contribute to the Iran-Contra affairs that seriously damaged his presidency. He held strong convictions about his political values and goals, but he did not often inquire into the implications of the actions necessary to carry out his objectives. His tendency to delegate to his subordinates the responsibility to implement his goals was in some cases good management practice. But in important issues of state and major policy, his refusal to look more closely into the means that would be used to accomplish his ends could be seen as an abdication of his responsibility as president.

In the Iran part of the Iran-Contra affair, President Reagan let his personal concern for the hostages override his own stated convictions and the policy of the United States Government that giving in to terrorists will only lead to more terrorism. This inconsistency on the president’s part is understandable and in some ways admirable; his concern for the human beings involved overrode his rational mind. He might have taken more seriously, however, the concern of his Secretary of Defense that sending arms to Iran was a breach of law.

On the Contra part of the Iran-Contra affair, President Reagan’s personal ideological convictions were that the Sandinista government of Nicaragua was a threat to U.S. national security interests and that the Contras should be supported by the U.S. There is nothing wrong or sinister about these convictions, but his concerns set a tone in the White House that led his national security advisors to break the law in order to carry out what they were sure were his wishes. Here, the President’s failure to inquire more closely into how his White House staff was carrying out his policies can be seen as a serious problem.

If the diversion of funds had been framed as a question and put to him by his aides about whether or not to break the law, President Reagan would almost certainly have said no. (Though he was willing to break the law to free the hostages.<sup>13</sup>) But if the diversion issue was framed as “we’re taking care of the Contras,” Reagan might not have inquired too closely as to exactly how it was being done.

## **What Happened**

In 1984 and 1985 seven U.S. hostages were kidnapped in Lebanon by Shiite Muslims closely connected to the leaders of Iran. Iran and Iraq were at war, and Iran had a desperate need for military equipment and spare parts to fix its weapons, many of which came from the United States during the period it supported the Shah of Iran. Intermediaries proposed a deal that would include the release of the hostages in exchange for the United States supplying spare airplane parts and missiles to Iran.

President Reagan had become extremely concerned with the plight of the hostages, one of whom was a CIA station chief. His concern was reflected by NSC staffers, who made arrangements to exchange U.S. arms and spare parts for Iranian intervention to have the hostages in Lebanon released. NSC staffers also argued that it was important to try to reestablish U.S. ties to moderates in Iran so that when the Ayatollah Khomeini died, the U.S. would have some influence in Iran, which the U.S. did not want to fall under Soviet influence. Israel also wanted to support Iran in its war with Iraq, which Israel considered a greater security threat. So Israel agreed to ship arms to Iran, which would then be replaced by the U.S. The U.S. also shipped TOW missiles and HAWK missiles directly to Iran.

The President's decision to trade arms for hostages can be questioned on several grounds. First, the surface rationalization for the policy was to open relations with "moderates" in Iran. But it is doubtful that there were any moderates in powerful positions in Iran at the time. It was the CIA's judgment that Khomeini was in charge and that no one else would be allowed to negotiate with the Americans, especially about weapons.<sup>14</sup> Second, the U.S. had a firm policy not to negotiate with terrorists. In a 1985 speech, President Reagan said that Iran was part of a "... confederation of terrorist states ... a new international version of Murder Inc. America will never make concessions to terrorists."<sup>15</sup> The Reagan administration had launched "Operation Staunch," a diplomatic campaign to stop U.S. allies in Europe from selling arms to Iran or Iraq.<sup>16</sup> In a number of meetings in the White House, Secretary of State George Shultz and Secretary of Defense Casper Weinberger argued strenuously against trading arms for hostages (e.g., on 8/6/85, 12/7/85, and 1/7/86).<sup>17</sup> While Weinberger and Shultz may have been right on the merits of the arguments, the president was elected and clearly had the authority to set policy in the executive branch. Members of the cabinet are merely advisors to the president and implementors of policy, and the president has no obligation to take their advice. On the other hand, sending arms to Iran raised the issue of the Arms Export Control Act of 1976, which prohibited the sale of U.S. arms to nations designated as sponsors of terrorism. Iran had been so designated since 1984. George Shultz asked his legal advisor, Abraham Sofaer, to consider the legality of the arms sale, and Sofaer concluded that such sales would not be legal.<sup>18</sup> In the December 7, 1985 meeting with the president and top aides, Casper Weinberger argued against the sale of arms and argued that it would violate the Arms Export Control Act.<sup>19</sup> In addition, the National Security Act governing covert actions specified that they were to be taken only after an official "finding" by the president that the covert action is important to national security.<sup>20</sup> National Security Advisor John Poindexter testified before Congress that President Reagan had signed such a finding for the earlier approaches to Iran but that Poindexter had later destroyed it to save the president from possible embarrassment. President Reagan also signed a finding on January 17, 1986 that authorized U.S. direct arms sales to Iran. The law provides that Congress is to be notified before covert actions are undertaken, or if that is impossible, "in a timely fashion."<sup>21</sup> Congress did not learn of the arms-for-hostages initiatives until they were disclosed in the Lebanese newspaper, *Al-Shiraa* on November 3, 1986. The Reagan administration's actions to gain the release of the hostages over the course of several shipments of arms turned out to be futile. Several hostages were released, but three more hostages were captured. The courting of "moderates" in Iran was not successful because: first, there were no moderates in power; and second, some of the missiles were inferior equipment for which they charged artificially high prices. In the Contra dimension of the Iran-Contra affair, White House aides, particularly national security advisor, Admiral Poindexter, and staffer Oliver North undertook to use the "profits" received from the sale of missiles to Iran to aid the Contras in Nicaragua. The problem was that Congress had passed, and President Reagan had signed, a law prohibiting the U.S. aid to the Contras. The Boland Amendment stated:

During fiscal year 1985, no funds available to the Central Intelligence Agency, the Department of Defense, or any other agency or entity of the United States involved in intelligence activities may be obligated or expended for the purpose or which would have the

effect of supporting, directly or indirectly, military or paramilitary operations in Nicaragua by any nation, group, organization, movement or individual.

[Public Law 98-473, 98 STAT 1935-37, sec. 8066]

The law had not been passed without due deliberation in Congress. From the beginning of the 1980s, the Reagan administration felt the Sandinista government of Nicaragua posed a serious threat to U.S. national security interests, and support of the Contra opposition was a high priority of the administration. Financial and operational aid were provided to the Contras by the administration, but military aid was subject to a series of limitations written into public law between 1982 and 1986. Despite the best arguments of the Reagan administration, Congress was dubious of the wisdom and efficacy of continuing to arm the Contras. Thus the Boland Amendment was passed for FY 1985.<sup>22</sup>

Despite the law the administration was committed to continuing support of the Contras. President Reagan told national security advisor Robert McFarlane to keep the Contras together, “body and soul.”<sup>23</sup> NSC staffer Oliver North proposed the “neat idea” of using the money received from the sale of arms to Iran to support the Contras by diverting the money from the U.S. treasury where it should have gone. To carry this out, North and his associates set up secret bank accounts to handle the money.

## **The Consequences**

The secret attempt to fund the Contras was in direct violation of public law and a serious threat to the constitution. The president’s aides decided that what they could not achieve through the public constitutional process (continuing aid to the Contras) they would accomplish through secret means. There was no doubt about what the law prohibited; there had been a high level public debate over aid to the Contras throughout the 1980s, and the administration had not been able to convince a majority of the Congress that continued military aid to the Contras in 1985 was essential to U.S. security. But White House aides decided that aid to the Contras ought to continue. There is no doubt that President Reagan strongly supported aid to the Contras and that he communicated this directly to his staff. Reagan, however, denied any knowledge of the diversion of funds to the Contras, and there is no evidence that he knew about it before it was discovered by Attorney General Edwin Meese.

Revelation of arms-for-hostages deals and the diversion of funds to the Contras threw the administration into chaos for a number of months. Opinion polls showed that most Americans believed that President Reagan was lying when he denied that he had traded arms for hostages, and public approval of the president and his administration dropped significantly. George Shultz, Reagan’s Secretary of State, concluded that Poindexter and North:

. . . had entangled themselves with a gang of operators far more cunning and clever than they. As a result, the U.S. government had violated its own policies on antiterrorism and against arms sales to Iran, was buying our own citizens’ freedom in a manner that could only *encourage* the taking of others, was working through disreputable international go-betweens, was circumventing our constitutional system of governance, and was misleading the American people—all in the guise of furthering some purported regional political transformation, or to obtain in actuality a hostage release. And somehow, by dressing up this

arms-for-hostages scheme and disguising its worst aspects, first McFarlane, and then Poindexter, apparently with the strong collaboration of Bill Casey, had sold it to a president all too ready to accept it, given his humanitarian urge to free American hostages.<sup>24</sup>

Congress held hearings on the affair, and concluded that the affair was a disaster.

In the end, there was no improved relationship with Iran, no lessening of its commitments to terrorism, and no fewer American hostages.

The Iran initiative succeeded only in replacing three American hostages with another three, arming Iran with 2,004 TOWs and more than 200 vital spare parts for HAWK missile batteries, improperly generating funds for the Contras and other covert activities (although far less than North believed), producing profits for the Hakim-Secord Enterprise that in fact belonged to the U.S. taxpayers, leading certain NSC and CIA personnel to deceive representatives of their own Government, undermining U.S. credibility in the eyes of the world, damaging relations between the Executive and the Congress, and engulfing the President in one of the worst credibility crises of an Administration in U.S. history.<sup>25</sup>

Although the possibility of impeachment was discussed in both the executive and the legislative branch, it was not pursued by Congress. The feeling in Congress was that the country was not ready to go through another trauma so soon after the Watergate trauma. In addition, there was no evidence that President Reagan knew about the diversion of funds to the Contras before it happened, the most likely grounds for impeachment. The other aspects of the opening to Iran, despite possible illegality, were not serious enough for impeachment proceedings. In addition, President Reagan did not stonewall the investigations, as Presidents Nixon and Clinton had done. He established the Tower Board to investigate the matter; he brought in Special Counsel David Abshire to ensure that there would be no cover-up; and when Howard Baker became chief of staff, there was an exhaustive internal investigation.<sup>26</sup> He refused to claim executive privilege and turned over documents to the independent counsel and congressional investigators. Thus President Reagan salvaged his presidency from what might have been far worse consequences.

## **President Clinton's Impeachment**

### **President Clinton's Motives**

For all of his talents and electoral victories, Bill Clinton still felt like a victim. When the press wrote stories about his past sexual affairs, he felt that the press and his enemies were out to thwart him and ruin his career. According to his long-time associate and advisor, Dick Morris, Clinton “. . . was constantly trying to escape blame for anything. Denial spread into a ubiquitous pattern where everything that went wrong was somebody else's fault. Never his.”<sup>27</sup> According to Stephen J. Wayne, “When things do not go right, Clinton tends to see himself as victim. He rarely blames himself, however. Clinton not only lashes out at his staff, but also demonizes his opponents.”<sup>28</sup>

On January 17, 1998, Clinton testified in a deposition in the Paula Jones case that he had not had sex with Monica Lewinsky. On January 21 the story was made public in the *Washington*



*Post.* After the story broke about Clinton's affair with Monica Lewinsky, the turning point seemed to be when Clinton decided to lock himself irrevocably into lying about his relationship with Lewinsky. Clinton's motive was to avoid personal embarrassment and his standing with the public. As he later considered whether to admit that he had lied, his motives came to include avoiding the legal ramifications of admitting that he had broken the law.

## **What Happened**

Shortly after graduating from college in June 1995, Monica Lewinsky came to work in the White House as one of many interns. According to her account, she and the president began having an affair in November of that year, and she received a salaried position in the Office of Legislative Affairs. By April 1996 some White House staffers felt she was seeing the president too often and had her transferred to a public affairs job in the Pentagon. Over the next 21 months, White House logs recorded that she was cleared to enter the White House 37 times.<sup>29</sup> While at the Pentagon, Lewinsky made friends with a former White House secretary, Linda Tripp, who also worked in the Pentagon. Tripp had been the source for a news story about an encounter between President Clinton and Kathleen Willey in the White House, and when her credibility was questioned by the president's lawyer in the fall of 1997, she began to tape her phone conversations with Lewinsky. The tapes contained assertions by Lewinsky about her relationship with the president and her frustration because he was not calling her.

In the meantime, the suit brought against the president by Paula Jones had been under way for several years. Jones alleged that in a 1999 encounter in a Little Rock hotel room, then Governor Clinton had crudely propositioned her and that she had turned him down. The suit was a civil action alleging sexual harassment. In the course of building their case, Jones's lawyers were gathering evidence about other women with whom Clinton might have had relationships over the years in order to demonstrate a pattern of sexual harassment. The president gave a deposition in the Paula Jones law suit on January 17, 1998. With knowledge of the Tripp-Lewinsky tapes, the lawyers for Paula Jones asked Clinton if he had had sex with Lewinsky. When asked about an affair, Clinton denied a sexual relationship, providing the grounds for charges of perjury and eventual impeachment if Starr could prove that they had in fact had a sexual relationship. Having sex with an intern is not illegal (however wrong it might be), but intentionally lying about it in a civil deposition could constitute perjury. Thus the question by Jones's lawyers about Lewinsky set Clinton up for a possible perjury charge. Based on the tapes, Starr suspected that Clinton might have tried to illegally cover up their affair. On January 21, 1998, the story of the tapes and Lewinsky's conversations with Tripp became public, and the media began a feeding frenzy about all aspects of the scandal. President Clinton in a strong statement publicly denied that he had a sexual relationship with Lewinsky. "I want you to listen to me. I'm going to say this again. I did not have sexual relations with that woman, Miss Lewinsky. I never told anybody to lie—not a single time, never. These allegations are false. And I need to go back to work for the American people."<sup>30</sup> Starr's investigation of Clinton continued through the spring and summer of 1998. In July Starr came to an immunity agreement with Monica Lewinsky, assuring her that she would not be prosecuted based on her testimony about her relationship with Clinton. Lewinsky testified in detail about their relationship and provided evidence that convinced the grand jury that she and Clinton had had a sexual relationship. Based on evidence from the Lewinsky testimony, Starr sought to subpoena the president to testify before a grand jury.

## The Consequences

In the face of the subpoena, President Clinton agreed to testify “voluntarily” before Kenneth Starr’s grand jury on August 17, 1998 about his relationship with Monica Lewinsky. During four hours of close questioning by Starr’s lawyers, President Clinton carefully answered most questions but still maintained that he had not lied in his denial of a sexual relationship with Monica Lewinsky, and the president was clearly equivocating in his answers to some questions about their relationship.

In the evening, after his deposition, the president made a statement in a nationally televised broadcast about his testimony. In his statement he told the nation that he regretted his relationship with Lewinsky and its consequences. “Indeed, I did have a relationship with Miss Lewinsky that was not appropriate. In fact, it was wrong. It constituted a critical lapse in judgment and a personal failure on my part for which I am solely and completely responsible. . . . I know that my public comments and my silence about this matter gave a false impression. I misled people, including even my wife. I deeply regret that.” In his statement Clinton also criticized Kenneth Starr for his relentless pursuit of evidence: “It is time to stop the pursuit of personal destruction and the prying into private lives and get on with our national life.” Several weeks later on September 9, Kenneth Starr sent his report to Congress concerning possible impeachable offenses by President Clinton. The list of charges included allegations that the president had lied under oath in his deposition in the Paula Jones sexual harassment case and in his testimony on August 17, that he had urged Lewinsky and his secretary to lie under oath, that he tried to obstruct justice by having his secretary hide evidence, and that he had tried to get Ms. Lewinsky a job to discourage her from revealing their relationship.

On October 5 the Judiciary Committee of the House voted 21 to 16 along party lines to recommend impeachment hearings. Three days later, on October 8, the full House voted 258 to 176 (with 31 Democrats voting in favor and no Republicans against) to open an impeachment inquiry. On December 11 and 12, the Judiciary Committee voted along party lines in favor of four articles of impeachment. A Democratic motion to censure the president was easily defeated by the Republicans, and the articles were reported out to the full House.

The formal impeachment debate opened on December 18 on the floor of the House of Representatives, with the Republicans arguing that Clinton had corrupted the rule of law by committing perjury and obstructing justice and the Democrats arguing that he should be censured but not impeached. Democrats and moderate Republicans who felt that Clinton’s actions were reprehensible, but not impeachable, wanted to vote to censure Clinton. Censure language was proposed by Democrats that harshly condemned Clinton for making “false statements concerning his reprehensible conduct and that he “violated the trust of the American people, lessened their esteem for the office of the president, and dishonored” the presidency.<sup>31</sup> But the motions for censure were not successful.

The House of Representatives met on December 19, 1998 and adopted two articles of impeachment. Article I charged that President Clinton “willfully provided perjurious, false and misleading testimony to the grand jury” on August 17, 1998 concerning his relationship with Monica Lewinsky and his attempts to cover it up. Article III charged that President Clinton “prevented, obstructed, and impeded the administration of justice” in order to “delay, impede, cover up, and conceal the existence of evidence and testimony” in the Paula Jones case by encouraging a witness to lie, by concealing evidence, and by trying to prevent truthful testimony by finding a job for Monica Lewinsky. Each of these articles concluded that “William Jefferson Clinton has undermined the integrity of his office, has brought disrepute on the presidency, has

betrayed his trust as president, and has acted in a manner subversive of the rule of law and justice, to the manifest injury of the people of the United States.” The two articles charging perjury in the Paula Jones deposition of January 17 and failure to respond adequately to congressional inquiries were defeated.

The trial in the Senate opened on January 7, 1999. The House impeachment brief argued that the president had indeed committed the crimes charged in the two articles—that he lied under oath before the grand jury investigating him on August 17, 1998 (Article I), and that he attempted to obstruct justice by encouraging Lewinsky to lie about their relationship, concealing evidence, and getting Lewinsky a job. On February 12, 1999, the final votes were taken, and both articles failed to receive the two-thirds majority necessary for conviction and removal from office.

### **Comparing Three Presidents in Crises**

Each one of these presidents when faced with potentially damaging public revelations about their behavior acted initially to limit the political damage to themselves and their administrations, and each chose paths of behavior that would threaten their presidencies. Admitting to the truth of the alleged improper behavior would have damaged their administrations, but their failures to respond truthfully led directly to much worse damage being done.

But at a deeper level each president could not initially admit to himself that he had done anything wrong. Richard Nixon rationalized the actions of his administration by arguing that Democratic presidents had done the same thing and that his enemies were out to destroy him. Ronald Reagan rationalized his trading of arms for hostages by arguing that the hostages were merely a side issue in a strategic opening to Iran. Bill Clinton rationalized his lies by arguing that his enemies were out to get him, other presidents had done worse, his private life was not the public’s business, and that he was technically telling the truth. Each of these sets of rationalization allowed the presidents to choose the path that would end up damaging them more than an initial admission would have.

### **The Key Decisions**

Each president made initial key decisions that reflected character flaws that got them in trouble.

When he first heard about the Watergate break-in Richard Nixon did not hesitate; he followed his first instinct, which was to limit the political damage and cover up the incident. His decision was based in part on a rational calculation that publication of the incident would hurt him politically and that might uncover other damaging evidence of illegal behavior by other White House and reelection committee aides.

Ronald Reagan’s initial reaction when the McFarlane trip to Iran was made public was to deny that there was any problem. The actions of his highest aides were merely intended to bring about an opening to Iran. He knew he did not approve of trading arms for hostages, so he concluded that he could not have done so. After weeks of publicity and press reports and after strong prodding by David Abshire and George Shultz, he finally was convinced that he had to tell the truth. He saved himself from further damage from the diversion of funds to the Contras by fully cooperating with the investigations, refusing to invoke executive privilege, and turning over requested documents. He thus stemmed the damage to his presidency in a way that the other two presidents did not. While the diversion of funds was a grave constitutional issue, it was done

without President Reagan's knowledge.

Bill Clinton's first instinct was to deny his sexual relationship with Monica Lewinsky, just as he had with all previous allegations of sexual impropriety. He did seem to consider the possibility of telling the truth after the allegations became public, but after the poll by Dick Morris, he concluded that confessing to have lied would have hurt him too much politically; and so he embarked upon the firm policy of denial that resulted in his impeachment.

## **Ironies**

The initial irony is that each president was hurt more by the denial and cover-up than they would have been if they had immediately admitted the truth about their previous behavior. The cost would have been quite high for each, but the truth did come out in the end and caused more harm at that late stage than an early admission would have.

But the more profound irony is that none of the three breaches of trust by presidents or their aides was necessary or achieved the goals that had been hoped for.

Richard Nixon did not need a lot of illegal help to get reelected in 1972. Even if Edmund Muskie was the Democratic candidate, Nixon's foreign and domestic policy record was sufficiently popular to put him in a strong position. Thus the actions that led to the cover-up were unnecessary; it was only Nixon's paranoia and the tone he set that encouraged his aides to undertake the actions that eventually brought him down.

Ronald Reagan's selling of arms to Iran did not free the hostages; those that were freed were replaced by others. The selling of inferior arms at inflated prices did not endear the United States to Iran. Iran also had its own security reasons for not wanting to be pulled into the Soviet orbit. The diversion of funds from Iran to the Contras did not make a big difference in their ability to resist the government of Nicaragua. Only a small percentage of the funds intended for the Contras actually got to them.

Bill Clinton did not need to lie in his deposition in the Paula Jones case. The judge dismissed the case several months later even though it had been revealed that Clinton had lied. Neither did he need to lie directly to the American people in his finger-pointing statement. As became evident after his lies were revealed, public support for him was strong enough to weather that storm. Clinton's highest public approval ratings came during his impeachment and trial. His treatment of Kenneth Starr as his nemesis became a self-fulfilling prophecy when Starr pursued Clinton and revealed his most private and embarrassing actions.

## **They Did It to Themselves**

Each president felt that his political enemies and the press were the cause of his troubles, but in fact each of these presidents was the primary cause of his own problems. A character flaw was the fundamental cause of each of their self-inflicted wounds.

Richard Nixon had developed deep suspicions about his political enemies and the tactics they would use to get him. But these suspicions were often projections of the tactics he used to get his enemies. Certainly Nixon did have political enemies and they wanted to beat him politically, but that is the nature of politics. Nixon's overreaction and actions against his enemies were the very things that accomplished what his enemies never could have: his resignation from the presidency in disgrace. Nixon's epiphany came in the last moments of his presidency in his farewell remarks just before leaving for California: ". . . always remember, others may hate you, but those who

hate you don't win unless you hate them, and then you destroy yourself.”<sup>32</sup>

Ronald Reagan felt that the press was guilty of embarrassing him and undermining his attempts to repair relations with Iran. He felt that Congress tried to obstruct his policies and was generally irresponsible. Certainly Congress had different policy preferences than Reagan and passed laws of which he did not approve. But it was not the press or Congress that initiated the doomed arms for hostages initiative, and it was not their fault that North and Poindexter felt justified in breaking the law. It was Ronald Reagan's decision to trade arms for hostages, and it was his approach to policy direction and managing his White House that allowed his subordinates to pursue their illegal actions.

Bill Clinton had long blamed his enemies for working to bring him down. He felt that the press was hostile to him, and his wife blamed a “vast right wing conspiracy” for attempting to orchestrate his downfall. Certainly Clinton had political enemies who were doing their best to undermine him. But it was not his political enemies who initiated his affair with Monica Lewinsky or led him to lie about it. It was his own denial of his actions and refusal to take responsibility for his own behavior that caused his disaster.

### **Threats to the Constitution and the Polity**

The central themes in each of these crises of the presidency were: the rule of law, accountability to the Constitution, and abuse of power. The major threat in Watergate was to the domestic political process, the integrity of elections, and the civil rights of citizens. The major threat in Iran-Contra was to the constitutional role of Congress, the obligation that the president take care to faithfully execute the laws, and accountability to the Constitution. The major threat in the Clinton case was the president's respect for the judicial process and his obligation to obey the law.

The Watergate activities constituted a major threat to civil liberties and the integrity of the political and electoral process. There was a secret unit paid by White House aides that was used to intimidate political enemies and illegally gather information which was unaccountable to anyone but its political directors. President Nixon used governmental agencies, such as the Treasury, FBI, and CIA for illegitimate and illegal activities. His campaign operatives illegitimately interfered with the political and electoral process.

In addition to his own lies and illegal actions, President Nixon set the tone so that his campaign and White House aides thought that he wanted them to undertake illegal and unethical activities in support of his reelection, which they did.

The Iran-Contra case presented a major threat to the rule of law and the constitutional balance between the president and Congress. Secretary of Defense Weinberger warned the president that the arms-for-hostages deal might violate the law and was unwise policy. The president's failure to notify Congress about the covert action was more troubling. But the most serious problem was the diversion of funds to the Contras in direct violation of the law. The president's aides also destroyed evidence, produced false chronologies, and lied to Congress to hide their actions. William Casey intended to set up “The Enterprise” to generate money that could be spent at his direction entirely unaccountable to the Congress, the Constitution, or the law.

The threat to the Constitution was not merely the sidestepping of the legitimate role of Congress in making foreign policy in the violations of the Arms Export Control Act and the failure to notify Congress as required by the National Security Act. These violations of the law were serious, but probably did not rise to the level of “high crimes and misdemeanors.” The diversion

of funds to the Contras, however, violated the law and constituted a serious breach of the Constitution by allowing the executive to make policy unilaterally in contravention of the explicit will of Congress as expressed in public law signed by the president. If such practices were permitted, it might indeed lead to the tyranny of the executive that the Framers feared. If the president had known of and approved of the diversion of funds, it would likely have led to impeachment proceedings.

As it was, there was no evidence that President Reagan had any knowledge of the diversion of funds until it was discovered by the aides of the Attorney General. Thus no impeachment actions were taken in Congress. President Reagan's actions in the aftermath of the public disclosures and his aides' strong urgings were clearly superior to the reactions of Presidents Nixon and Clinton to their crises. He ordered that the truth be found, and he cooperated with the investigation authorities.

On the other hand, despite the Independent Counsel's conclusion that "President Reagan's conduct fell well short of criminality which could be successfully prosecuted," he failed to carry out all of his duties as president.<sup>33</sup> The congressional committee that investigated the Iran-Contra affair concluded:

. . . the ultimate responsibility for the events in the Iran-Contra Affair must rest with the President. If the President did not know what his national Security Advisors were doing, he should have. . . . It was the president's policy—not an isolated decision by North or Poindexter—to sell arms secretly to Iran and to maintain the Contras "body and soul," The Boland Amendment notwithstanding. . . . The President created or at least tolerated an environment where those who did know of the diversion believed with certainty that they were carrying out the President's policies.<sup>34</sup>

What President Reagan was guilty of was setting the tone in the White House that encouraged his most senior aides to believe that they were carrying out his wishes when they undertook to violate the law by giving aid to the Contras when it was against the law. With respect to selling arms to Iran, Reagan was willing to continue even after his Secretaries of State and Defense argued that it might be illegal.

The major issues raised by President Clinton's impeachment were not so much his personal behavior, which was deplorable, but his lying about it under oath in legal proceedings. His lies undermined the judicial system, which depends on the truthful testimony of all, particularly government officials. His lies to the American people also undermined the trust of citizens in the president and the government more generally. President Clinton was also guilty of setting the tone in his White House where lying was acceptable, insofar as his aides and appointed officials also lied to the public in his defense, even though they probably realized privately that the president was lying. His lies and actions were corrupting.

Clinton's behavior was thus corrupting of several members of the executive branch, and he did not take care that the laws be faithfully executed. His actions were deplorable and wrong but did not constitute the same level of institutional threat to the polity that Watergate and Iran-Contra did.

## Endnotes

1. An earlier version of this chapter was published in David Abshire, ed. *Triumphs and Tragedies of the Modern Presidency* (Westport, CT: Praeger, 2001).
  2. See the perceptive analysis by David Gergen, *Eyewitness to Power* (NY: Simon and Schuster, 2000), pp. 93–104.
  3. In 1969 Nixon told John Ehrlichman to set up “a little group right here in the White House. Have them get off their tails and find out what’s going on and figure out how to stop it.” Quoted in Stanley I. Kutler, *The Wars of Watergate* (NY: Alfred A. Knopf, 1990), p. 112. On May 16, 1973 Nixon in a conversation with Alexander Haig said: “The Ellsberg thing was something that we set up. Let me tell you. I know what happened here and Al knows what happens. We set up in the White House a independent group under Bud Krogh to cover the problems of leaks involving, at the time, of the Goddamn Pentagon papers; right? . . . the plumbers operation.” Tape transcript in Stanley I. Kutler, *Abuse of Power: the New Nixon Tapes* (NY: The Free Press, 1997), p. 514.
  4. Fred Emery, *Watergate* (NY: Times Books, 1994), p. 30.
  5. See Stanley Kutler, *Abuse of Power* (NY: The Free Press, 1997), p. 33.
  6. Of the Huston Plan, Nixon said: “Well, then to admit that we approved . . . illegal activities. That’s the problem.” Also, “I ordered that they use any means necessary, including illegal means, to accomplish this goal.” Quoted in Kutler, *Abuse of Power*, p. xxi.
  7. Leonard Garment, *Crazy Rhythm* (NY: Times Books, 1997), p. 297.
  8. See Kutler, *Abuse of Power*, p. xxi.
  9. The New York Times, *The White House Transcripts* (NY: Vintage Books, 1973), pp. 146–147; (March 21, 1973).
  10. See Michael Genovese, *The Nixon Presidency* (NY: Greenwood Press, 1990), p. 190.
  11. *The White House Transcripts*, quoted in Larry Berman, *The New American Presidency* (Boston: Houghton Mifflin, 1987), p. 189.
  12. See Kutler, *The Wars of Watergate*, pp. 431–434.
  13. Weinberger and Shultz argued that selling arms to Iran might break the Arms Export Control Act in meetings with the president. “I felt that as far as being the president that a thing of this kind to get back five human beings from potential murder, yes, I would violate that other—that law.” Bob Woodward, *Shadow* (NY: Simon and Schuster, 1999), p. 164. See also pp. 109–110, 137, 155.
  14. George Shultz, *Turmoil and Triumph* (NY: Charles Scribner’s and Sons, 1993), p. 824. After reviewing the CIA analysis, Shultz concluded: “. . . Khomeini was firmly in power, and Rafsanjani was carrying out the Ayatollah’s resolute policy of opposition to the United States; recent events in Iran suggested that no Iranian leader other than Khomeini has the power to initiate a rapprochement with the United States or even to offer such a suggestion for debate.”
  15. Quoted in William S. Cohen and George J. Mitchell, *Men of Zeal* (NY: Viking, 1988), p. xx.
  16. See George Shultz, *Turmoil and Triumph* (NY: Charles Scribner’s Sons, 1993), pp. 237, 239, 785. Shultz was angered that he was told by White House aides that the U.S. was not selling arms to Iran and that he assured our European allies of it at the same time that the U.S. was in fact selling arms to Iran. See pp. 783–924, passim.
  17. See the chronology in William S. Cohen and George J. Mitchell, *Men of Zeal* (NY: Viking, 1988), p. xix-xxxi.

18. See Shultz, *Turmoil and Triumph*, p. 811.
19. See Theodore Draper, *A Very Thin Line* (NY: Hill and Wang, 1991), pp. 225–226, 247–248. See also Bob Woodward, *Shadow* (NY: Simon and Schuster, 1999), p. 137. White House counsel Peter Wallison also reported to chief of staff Donald Reagan that the shipments were likely violations of the Act. See Woodward, *Shadow*, p. 109.
20. See Schultz, *Turmoil and Triumph*, p. 804.
21. See the discussion of the law in Cohen and Mitchell, *Men of Zeal*, pp. 12–13; pp. 279–288.
22. For an analysis of the Boland Amendment and its application to the National Security Council staff, see *Report of the Congressional Committees Investigating the Iran-Contra Affair* (Washington: Government Printing Office, November 1987), pp. 41–42.
23. See Draper, *A Very Thin Line*, p. 33.
24. Shultz, *Turmoil and Triumph*, p. 811.
25. *Report of the Congressional Committees Investigating the Iran-Contra Affair*, p. 280.
26. See David Abshire’s account of his experience in the Reagan White House, *To Save a Presidency: The Curse of Iran-Contra* (NY: Oxford University Press, forthcoming). On the internal Baker investigation, see Bob Woodward, *Shadow* (NY: Simon and Schuster, 1999), p. 151. It included 13 interrogations of the president, a staff of 67 people in the White House, and examined more than 12,000 documents.
27. Dick Morris, *Behind the Oval Office* (Los Angeles: Renaissance Books, 1999), p. xxiv.
28. Stephen J. Wayne, “Presidential Personality: The Clinton Legacy,” in Mark J. Rozell and Clyde Wilcox, *The Clinton Scandal* (Washington: Georgetown University Press, 2000), pp. 217–218.
29. *Washington Post* (8 February 1998), p. A20.
30. Quoted in Jeffrey Toobin, “Circling the Wagons,” *The New Yorker* (6 July 1998), p. 29.
31. *Congressional Quarterly Weekly* (22 December 1998), p. 3324.
32. Richard Nixon, *RN: The Memoirs of Richard Nixon* (NY: Grosset and Dunlop, 1978), p. 1089.
33. Lawrence E. Walsh, *Iran-Contra: The Final Report* (NY: Random House, 1993), p. 445.
34. *Report of the Congressional Committees Investigating the Iran-Contra Affair* (November 1987), pp. 21–22.