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Covert Action

Reagan Ruling to Let CIA Kidnap Terrorists Overseas Is Disclosed

Decision After TWA Hijack Met Opposition of Aides And Congressional Panels

New Slant in Hostage Cases

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WASHINGTON — President Reagan early last year secretly authorized the Central Intelligence Agency to kidnap suspected terrorists overseas and bring them to this country to stand trial.

The idea of kidnapping—described by one law-enforcement official as a "snatch, grab and deliver operation"—was approved by the president in a January 1986 directive, according to administration, law-enforcement and intelligence officials. The directive, called a "finding," also approved other actions, including covert operations to preempt terrorist plots, in some cases by attacking the terrorists before they could strike, the officials say.

Mr. Reagan approved the finding despite fierce opposition from some officials in his administration and in the CIA and the Federal Bureau of Investigation. His decision raised concern among members of the congressional intelligence committees, particularly over the wisdom of the kidnapping idea and the prospect of preemptive U.S. attacks on terrorists.

No Actions So Far

So far, the U.S. hasn't tried to kidnap any suspected terrorists, the officials say.

The CIA operation established by the finding came under the overall supervision of an interagency group headed by Lt. Col. Oliver North, the since-fired National Security Council aide who was also heavily involved in the secret arms sales to Iran. Those sales were authorized under another secret directive signed the same month.

Officials say that Col. North and former CIA Director William Casey were instrumental in developing the kidnapping idea.

White House spokesman Marlin Fitzwater didn't return several telephone calls

seeking comment on the presidential directive.

Disclosure of the proposed kidnappings and other covert actions is sure to add to the controversy over the administration's secret actions to deal with hostage-taking and other terrorist acts, including the attempt to trade arms to Iran for American hostages.

Webster's Misgivings

FBI Director William Webster says he has serious misgivings about the wisdom of using force to abduct suspected terrorists in foreign nations. Without commenting on the specific presidential directive, Mr. Webster says, "We should weigh carefully the larger implications of taking any such action without the knowledge or approval" of foreign governments. Such action, he says, erodes the integrity of law-enforcement agencies and "gives the appearance of having thumbed our nose at the host country."

Some officials were worried that the authorization of preemptive attacks against suspected terrorists might be used to sidestep President Reagan's 1981 prohibition of assassinations. But "there's been absolutely no plan to conduct assassinations," insists a senior White House official. "One, we're not good at it and, two, we ought to eschew it. But preemption may mean that if we find out at 3 o'clock that some group is going to attack us at 5 o'clock, we'll hit them first, at 4 o'clock."

The January 1986 directive also authorized the CIA to harass and interdict terrorists in foreign countries by sabotaging their supplies, finances, travel, recruiting and operations. A new counterterrorism center in the CIA that was established by the finding has mounted a number of efforts to sabotage terrorist operations in Lebanon and elsewhere, officials say.

The controversial policy directive had its roots in the administration's growing frustration with its inability to find suspected terrorists and bring them to justice, especially amid the fratricidal anarchy of Lebanon, senior officials say. In friendlier and less chaotic countries, administration officials say, authorities sometimes apprehend suspected terrorists, drug dealers and other criminals and hand them over to the U.S. without any legal formalities.

"Formal extradition proceedings tend to have a high political profile, and some nations prefer to handle these things quietly," one State Department official says.

Role of TWA Hijackers

The January 1986 finding was signed in the wake of the administration's vain effort to track down the June 1985 hijackers of TWA Flight 847, officials say.

Mr. Casey and the CIA also were eager to locate and punish the terrorists who kidnapped William Buckley, the CIA station chief in Beirut, in March 1984 and then tortured him until he died, apparently in June 1985.

Senior administration officials say that Mr. Casey, Attorney General Edwin Meese, Secretary of State George Shultz and Col. North were the most vocal advocates of kidnapping suspected terrorists in order to bring them to justice.

FBI chief Webster, a former federal appeals-court judge, and Oliver "Buck" Revell, one of his top aides, strongly objected to the kidnapping strategy, on the grounds that it probably violated international law and wouldn't succeed, according to law-enforcement officials. FBI spokesmen decline to comment on the role of Mr. Webster and Mr. Revell, citing national-security restrictions.

At the CIA, intelligence sources say, both former Deputy Director John McMahon and Clair George, the agency's deputy director for operations, opposed the idea. Mr. McMahon retired from the CIA in December 1985; Mr. George was overruled.

Mr. Meese and other top officials urged the president to sign the directive, according to law-enforcement officials, on the grounds that such activities, amounting to self-defense, were sanctioned by the United Nations Charter and other principles of international law. Officials say that Abraham Sofaer, a State Department legal adviser, also wrote a memo declaring that forcibly apprehending terrorists overseas wouldn't prejudice cases against them in American courts.

During a recent seminar on terrorism and the media produced by Columbia University and by two public-television stations, Mr. Sofaer said the U.S. would be within its rights to seize a suspected terrorist in a foreign country. "This is a new game in terrorism but it's an old game in other crime," he said. "We have people who deliver people to us. . . . You might just find a fellow somewhere, all tied up. He might be sent to a country where we have an effective extradition treaty."

Congress in 1984 passed a major anti-terrorism law specifically expanding U.S. criminal jurisdiction to cover hijackings, kidnappings and other terrorist acts against American citizens, planes, ships or facilities anywhere in the world. The law makes it much easier to prosecute alleged terrorists, but it doesn't deal with the question of how they are brought to a U.S. courtroom.

"People volunteer to be arrested and tried very seldom," says one administration counterterrorism expert. "The courts generally don't object so long as there is

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no undue force or restraint used. If you get a ring in somebody's nose and don't pull it too tight, it's acceptable."

"It is controversial," a White House official concedes. "One judge might not be troubled by having a suspect brought before him in this manner, but another judge might throw the case out."

The CIA apparently was chosen to carry out such secret missions because under U.S. laws, the FBI is prohibited from operating in any foreign country unless it has the cooperation of that government. The FBI, however, was ordered to share intelligence and otherwise assist the CIA in the program, officials say.

A month after Mr. Reagan signed the finding, Col. North wrote a classified "annex" to a public report by Vice President George Bush's task force on combating terrorism. The annex created a secret interagency committee called the Operations Sub-Group, or OSG, to oversee kidnappings and other covert operations, intelligence sources say. Until he was dismissed last November, Col. North was the chairman of the group, along with Duane "Dewey" Clarridge, the head of the CIA counterterrorism center.

Concerns in Congress

Meanwhile, the administration disclosure of the secret directive to Senate and House intelligence committees stirred bipartisan objections.

According to one intelligence source, the major concern about the finding was that it was generally worded but authorized sweeping powers. "It was very vague," this official says. "It amounted to let us do what we want against terrorism." He says that lawmakers raised questions of possible assassination attempts but were told by the administration that this shouldn't be a concern because the executive order remained in effect.

Another intelligence source says that discussion in the Senate Intelligence Committee involved concern that Mr. Reagan should maintain control over whatever was done and not allow others to run off without authority. The feeling was, he says, that "you have to ensure the president's thumbprint is on this."

During a public hearing, however, Republican Sen. Arlen Specter of Pennsylvania urged the Justice Department to go "right up to the limits" allowed by the Supreme Court in grabbing terrorist suspects. "You might call it an abduction, you might even call it a kidnapping," Sen. Specter argued. "But given the problems of international terrorism," he said, "this is a minimal type of force."

The January finding was amended last April, intelligence sources say, after CIA General Counsel David Doherty demanded and received clarification of the agency's

presidential authority to carry out preemptive and other operations against terrorists.

During his time as the National Security Council's top counterterrorism official, Col. North talked about delivering a major terrorist suspect into U.S. hands, preferably in chains or in the trunk of a car, U.S. officials say.

Harder Than It Looks

The CIA, however, hasn't kidnapped any terrorists, intelligence officials say, because identifying them, tracking them down, and grabbing them is even harder than it looks. "If you go into another country and snatch someone up, you're mounting a paramilitary operation," one official says.

Administration officials say that when the idea originally was discussed, Col. North, Mr. Clarridge and others hoped it might be possible to recruit members of some warring Lebanese clans to deliver suspected terrorists from rival groups. "There was a thought that a competing group might be willing to hand over somebody we wanted," one official says.

But the administration had tried earlier to recruit Lebanese factions into its war on terrorism, with disastrous results. Late in 1984, President Reagan authorized the CIA to create and train a secret counterterrorist force composed of Lebanese, Palestinians and other non-Americans. Mr. McMahon, then the CIA's No. 2 official, and other CIA officials opposed the idea.

The Washington Post later disclosed that four months after the unit had been created, renegade members of it hired other Lebanese to plant a car bomb outside the Beirut home of radical Shiite clergyman Mohammed Hussein Fadlallah.

Mr. Fadlallah is the leader of the militant Hezbollah (or Party of God), which U.S. officials believe is responsible for bombings of U.S. installations in Lebanon and the kidnappings of Americans there. He survived the car bombing, but more than 80 other people were killed in the March 8, 1985, bombing.

The CIA publicly denied any involvement in the bombing, a claim supported by the House Intelligence Committee, which investigated the affair. But after the bombing, the administration canceled its effort to recruit and train a foreign counterterrorist force.

Unlike Col. North's secret Iranian arms sales and aid to Nicaraguan rebels, a senior U.S. official says, all counterterrorism operations now are conducted under close scrutiny from the CIA, the State and Justice Departments, and the congressional intelligence committees.

"Any operation that took place would be carefully coordinated," the senior official says. "I might be more concerned if Casey and Ollie were still around."

DAVID ROGERS CONTRIBUTED
TO THIS ARTICLE.