

II. COVERT ACTION AS A VEHICLE FOR FOREIGN POLICY IMPLEMENTATION

Covert action is activity which is meant to further the sponsoring nation's foreign policy objectives, and to be concealed in order to permit that nation to plausibly deny responsibility.

The National Security Act of 1947¹ which established the Central Intelligence Agency did not include specific authority for covert operations. However, it created the National Security Council, and gave that body authority to direct the CIA to "perform such other functions and duties related to intelligence affecting the national security as the National Security Council may from time to time direct." At its first meeting in December 1947, the NSC issued a top secret directive granting the CIA authority to conduct covert operations. From 1955 to 1970, the basic authority for covert operations was a directive of the National Security Council, NSC 5412/2.²

This directive instructed the CIA to counter, reduce and discredit "International Communism" throughout the world in a manner consistent with United States foreign and military policies. It also directed the CIA to undertake covert operations to achieve this end and defined covert operations as any covert activities related to propaganda, economic warfare, political action (including sabotage, demolition and assistance to resistance movements) and all activities compatible with the directive.³ In 1962, the CIA's General Counsel rendered the opinion that the Agency's activities were "not inhibited by any limitations other than those broadly set forth in NSC 5412/2." (CIA General Counsel Memorandum 4/6/62)

A. POLICY DEVELOPMENT AND APPROVAL MECHANISM

In his 1962 memorandum, CIA's General Counsel made it clear that the CIA considered itself responsible for developing proposals and plans to implement the objectives of NSC 5412/2.⁴ The memorandum also stated that even in developing ideas or plans it was incumbent on the Agency not only to coordinate with other executive departments and agencies, but also to "obtain necessary policy approval." The Committee has been faced with determining whether CIA officials thought

¹ (P.L. 80-253).

² Today the basic authority for CIA covert action operations is National Security Decision Memorandum 40, which superseded NSC 5412/2 on February 17, 1970.

³ By contrast NSDM 40 of 1970 described covert actions as those secret activities designed to further official United States programs and policies abroad. It made no reference to communism.

⁴ The memorandum stated:

"CIA must necessarily be responsible for planning. Occasionally suggestions for action will come from outside sources but, to depend entirely on such requirements would be an evasion of the Agency's responsibilities. Also, the average person, both in government and outside, is thinking along normal lines and to develop clandestine cold war activities properly, persons knowing both the capabilities and limitations of clandestine action must be studying and devising how such actions can be undertaken effectively."

With respect to policy approval, the General Counsel said:

"Both in developing ideas or plans for action it is incumbent upon the Agency to obtain necessary policy approval, and for this purpose these matters should be explored with proper officials in other departments and agencies, particularly in the Departments of State and Defense, so the determination can be made as to whether any one proposal should go to the Special Group or higher for policy determination."

it was "necessary" to obtain express approval for assassination plans and, if so, whether such approval was in fact either sought or granted.

Beginning in 1955, the responsibility for authorizing CIA covert action operations lay with the Special Group, a subcommittee of the National Security Council composed of the President's Assistant for National Security Affairs, the Director of Central Intelligence, the Deputy Secretary of Defense and the Under Secretary of State for Political Affairs. Today this group is known as the 40 Committee, and its membership has been expanded to include the Chairman of the Joint Chiefs of Staff. During 1962 another NSC subcommittee was established to oversee covert operations in Cuba. This subcommittee was the Special Group (Augmented); its membership included the Special Group, the Attorney General, and certain other high officials.

In exercising control over covert operations, the Special Group was charged with considering the objectives of proposed activities, determining whether the activities would accomplish the objectives, assessing the likelihood of success, and deciding whether the activities would be "proper" and in the national interest. The Chairman of the Special Group was usually responsible for determining which projects required Presidential consideration and for keeping him abreast of developments.

Authorization procedures, however, have not always been clear and tidy, nor have they always been followed. Prior to 1955, there were few formal procedures. Procedures from 1955 through 1963 were characterized in an internal CIA memorandum as "somewhat cloudy and * * * based on value judgments by the DCI." (Memorandum for the Record, C/CA/PEG, "Policy Coordination of CIA's Covert Action Operations", 2/21/67)

The existence of formal procedures for planning and implementing covert actions does not necessarily rule out the possibility that other, more informal procedures might be used. The granting of authority to an executive agency to plan covert action does not preempt Presidential authority to develop and mandate foreign policy. Formal procedures may be disregarded by either high Administration officials or officers in the CIA. In the Schneider incident, for example, President Nixon instructed CIA officials not to consult with the 40 Committee or other policy-making bodies.¹ In the plot to assassinate Castro using underworld figures, CIA officials decided not to inform the Special Group of their activities. One CIA operation, an aspect of which was to develop an assassination capability, was assigned to a senior case officer as a special task. His responsibility to develop this capability did not fall within the Special Group's review of covert operations, even though this same officer was responsible to the Special Group (Augmented) on other matters.

The Central Intelligence Agency also has a formal chain of command. At the top of the structure of the CIA is the Director of Central Intelligence (DCI) and his immediate subordinate, the Deputy Director of Central Intelligence (DDCI). Together they are responsible for the administration and supervision of the Agency. Beneath the DCI, and directly responsible to him, are the four operational components of the Agency. During the period covered by this report, the

¹ The Special Group was renamed the 303 Committee in 1964. In 1970 its name was changed again—this time to the 40 Committee.

component responsible for clandestine operations was the Directorate of Plans, headed by the Deputy Director for Plans (DDP).¹ The Directorate of Plans was organized around regional geographic divisions. These divisions worked with their respective overseas stations (headed by a Chief of Station (COS)) in planning and implementing the Directorate's operations. The divisions which played a part in the events considered in this report were the Western Hemisphere Division (WH) which was responsible for Latin America, the African Division (AF), and the Far Eastern Division (FE).

In addition to the regional divisions, the Directorate of Plans also included three staff-level units which provided some oversight and coordination of division projects. The staff units had no approval authority over the divisions. However, they could criticize and suggest modifications of projects sponsored by divisions. The three staffs were: Foreign Intelligence, Counterintelligence, and Covert Action.

When functioning in accordance with stated organizational procedures, the Directorate of Plans operated under a graduated approval process. Individual project proposals generally originated either from the field stations or from the divisions and were approved at varying levels within the Directorate, depending on the estimated cost and risk of the operation. Low-cost, low-risk projects could be approved at the Deputy Director for Plans level; extremely high-cost, high-risk projects required the approval of the DCI. Covert action proposals also required approval of the Special Group.

Also within the Directorate of Plans was a Technical Services Division (TSD) which developed and provided technical and support material required in the execution of operations. A separate Directorate, the Directorate of Support, handled financial and administrative matters. The Office of Security, a component of the Directorate of Support, was largely responsible for providing protection for clandestine installations and, as discussed at length in the Castro study, was occasionally called on for operational assistance.

B. THE CONCEPT OF "PLAUSIBLE DENIAL"

Non-attribution to the United States for covert operations was the original and principal purpose of the so-called doctrine of "plausible denial."

Evidence before the Committee clearly demonstrates that this concept, designed to protect the United States and its operatives from the consequences of disclosures, has been expanded to mask decisions of the President and his senior staff members. A further consequence of the expansion of this doctrine is that subordinates, in an effort to permit their superiors to "plausibly deny" operations, fail to fully inform them about those operations.

"Plausible denial" has shaped the processes for approving and evaluating covert actions. For example, the 40 Committee and its predecessor, the Special Group, have served as "circuit breakers" for Presidents, thus avoiding consideration of covert action by the Oval office.

"Plausible denial" can also lead to the use of euphemism and circumlocution, which are designed to allow the President and other

¹The Directorate of Plans is presently called the Directorate of Operations, and is headed by the Deputy Director for Operations (DDO).

senior officials to deny knowledge of an operation should it be disclosed. The converse may also occur; a President could communicate his desire for a sensitive operation in an indirect, circumlocutious manner. An additional possibility is that the President may, in fact, not be fully and accurately informed about a sensitive operation because he failed to receive the "circumlocutious" message. The evidence discussed below reveals that serious problems of assessing intent and ensuring both control and accountability may result from the use of "plausible denial."